MARYLAND DURING THE ENGLISH CIVIL WARS

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PART I

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Introduction.

For the past twenty-five years the Maryland Historical Society has been publishing for the State its Provincial Archives, at the rate of rather more than one volume a year, and the volumes which have appeared add much to our knowledge of the seventeenth century history of the Province. The Calvert Papers and other sources, which have been brought to the knowledge of men since Scharf's History of Maryland was issued, a generation ago, have thrown much light upon the same period. It is high time to make a careful study of the period, in view of this new information, and to place in their proper relations the facts previously known and those recently brought forth. This study was begun some years ago, and the first section of it was published in the twenty-first series of the Studies during 1903 under the title of the "Beginnings of Maryland." That monograph carried the history of the Province from its first settlement down to 1639. The present publication is a continuation of the same work, carrying the narrative forward from the date at which the earlier one concluded to the end of Lord Baltimore's difficulties with the Jesuits. It is hoped that a third part will relate the story of the succeeding years to the end of the English Civil Wars.

By New Year's Day, Old Style, 1639, the Province of Maryland had been settled for five years, during all of which time Leonard Calvert had directed its affairs. In this time St. Mary's had been settled, Kent Island subdued, Claiborne's pretensions to any part of the Province disallowed, amicable relations established with the Virginians and the

Indians, the first Assembly held, the first statutes made, the first crops grown on the new estates which had been granted by the Proprietary—in a word the beginnings of Maryland had come to an end. The student of the Province's history now approaches a period of troubles with the Indians and the Parliamentarians, of the intrusion of Ingle in the Provincial affairs, of Leonard Calvert's flight from the Province, of his reconquest of it and his death, of rumors of war from the great struggle between King and Parliament and of the famous act for religious toleration. To the study of this period we now address ourselves. It is the period of the English Civil Wars, yet these struggles have faint echo in the Provincial Records.

Indian Troubles of 1639 and 1640.

On March 20, 1638–9, the day after the adjournment of the Assembly, Calvert took, before the Secretary,[1] the oaths of allegiance and for the administration of equal justice, and administered the former oath and the one for the Councilor to Cornwallis, Brent, and Lewger. Lewger was also sworn as secretary of the Province and Brent as treasurer, and Thomas Baldridge was chosen and sworn as sheriff and coroner for a year. Matters moved smoothly in the Province for a time, save as to the Indians. Several men[2] patrolled the waters of Maryland to check trade with the Indians without Calvert's license and to bring unlicensed traders to St. Mary's.

Licenses are recorded[3] permitting men[4] to trade with the Indians for corn, but not to sell them arms or ammunition, and permitting corn bought from the Indians in 1639,

[1] 3 Md. Arch., Coun., 85. The form of the oath of allegiance was contained in an act introduced, but not passed, at the last Assembly. 1 Md. Arch., Ass., 40.

[2] 3 Md. Arch., Coun., 83–85, 91. John Harrington, Cuthbert Fenwick, John Hollis, Thomas Boys, Henry Bishop.

[3] 3 Md. Arch., Coun., 84, 87, 91.

[4] Andrew Chappell, Thomas Morris, Wm. Brainthwait, Thomas Games or James.

doubtless a plentiful year, to be exported northward of the Chesapeake Bay, especially to England.

The relations of the Virginians with the Indians were unfriendly and a great massacre of whites took place about this time.[5] The Susquehannocks and some Eastern Shore Indians were troublesome in 1639, and on May 28 Calvert, with[6] two of his three Councilors, determined to make an expedition against these tribes and to send to Virginia a shallop manned by five men pressed for that purpose, to procure there twenty corselets, a barrel of powder, four roundlets of shot, a barrel of oatmeal, three firkins of butter, and four firkins of hot waters (i. e. spirituous liquors). The equipment is interesting, as is the fact that it had to be got in Virginia. When the supplies came a pinnace was to be sent to Kent and another to the Susquehannocks' country. To man the expedition thirty or more "good shot" (a curious instance of an early use of a common expression for a marksman) with necessary officers should be pressed. Each of the shot was to be provided with victuals and paid one hundred pounds of tobacco a month or given another man, "a good laboring hand," in his room to tend his plantation. There were to be two sergeants, who should receive double pay. On the next day Giles Brent[7] was made a captain of the military band of St. Mary's, "to lead and command them and exercise them in discipline military," training all the inhabitants but the Councilors on "holy days and at other needful times," and viewing the provision of arms and ammunition at every dwelling house, once monthly if necessary. We have absolutely no further knowledge as to this expedition.

Just in the beginning of January, 1639–40, Calvert sent[8] a commission to Nicholas Harvey, authorizing him to lead

[5] Bozman, History of Md., v. 2, 161.

[6] Brent and Lewger, 2 Bozman, 162. Planning to leave St. Mary's for a time, Calvert appointed Cornwallis judge; 3 Md. Arch., Coun., 85.

[7] Cornwallis was probably absent; 3 Md. Arch., Coun., 86.

[8] 3 Md. Arch., Coun., 87; 2 Bozman, 165.

any volunteers, well armed men, over twelve in number, against the Maquantequats only, who "have committed sundry insolences and rapines upon the English" in Maryland, and to "inflict what may be inflicted by the law of war," and to divide the "pillage and booty therein gotten" among the company.[9] We know nothing of this expedition, nor why, later in the month, Calvert proclaimed that as "we are in peace and amity" with the Patuxents "I have taken them into our protection and prohibit all Englishmen from offering injury" to these Indians. Even among the Patuxents there were occasional unfriendly acts and, on February 3, Calvert directed a sufficient number of the inhabitants of Mattapanient hundred to be pressed to go to Aquascack on the Patuxent[10] and to demand of the Indians there the man who killed an Englishman in Anthony Cotton's boat.

Kent Island and Claiborne's Property.

On February 3, 1639–40, William Brainthwait[11] was succeeded by Capt. Giles Brent as commander of Kent. In the previous month Calvert directed the surveyor to lay out for Brent one thousand acres, lying about Kent Fort in the southern part of the island, and the same amount elsewhere. This Manor of Kent Fort included the site of Claiborne's settlement.[12] Brent's commission was similar to that given Brainthwait, who was associated with Capt. John Boteler and Thomas Adams as commissioners to act with Brent, except that there was no limit assigned to his original civil jurisdiction. In April Brainthwait was reinstated[13] as commander and Brent was asked to advise with the commissioners "in all greater causes"

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[9] 3 Md. Arch., Coun., 87.
[10] 3 Md. Arch., Coun., 88.
[11] 2 Bozman, 165; 3 Md. Arch., Coun., 89.
[12] See Steiner in 165 J. H. U. Circ. Claiborne on June 30, 1640, in Virginia showed the court there that he, as administrator of Capt. Thos. Smith, had paid as far as the assets would go and was discharged. Streeter, Md., Two Hundred Years Ago, p. 23.
[13] 3 Md. Arch., Coun., 90.

in the Court and on all other occasions of importance. The manor remained in the possession of the Brent family until 1782, when it was conveyed to Samuel Chew. Later the title to the land came before the United States Supreme Court for determination twice, in 1866 and 1869.[13a]

The property of Claiborne and of Cloberry and Morehead was attached[14] in January, 1638–39, on the ground that they had defended Kent Island against Baltimore's title, traded with the Indians contrary to his rights, felled the best timber trees for pipe staves, and otherwise disturbed the peace. They had been summoned to appear at St. Mary's before February 1, and, as of course they did not come, the property was forfeited. In 1640 Claiborne was busily prosecuting his case against his partners,[15] with whom he had fallen out, and on August 8 he gave a power of attorney to George Scovell of Nansemond to recover his Maryland[16] property, possibly in bravado, or to keep color of right to it. Scovell petitioned to be allowed to recover the estate, and was sarcastically answered that the estate Claiborne left in Maryland at his departure had been forfeited to the Proprietary for the crimes of piracy and murder whereof Claiborne was attained; but if Scovell can find out any of that estate not possessed by Baltimore, "he shall do well to inform his Lordship's attorney of it, that it may be recovered to his Lordship's use." If Claiborne had acquired property in Maryland since the attainder, the general law of Province gives Claiborne's attorney "free power and authority to recover it and, when

[13a] Deery v. Cray, 5 Wallace Reports, 795, 10 Wallace, 263.
[14] 3 Md. Arch., Coun., 82.
[15] 5 Md. Arch., Coun., 181.
[16] 3 Md. Arch., Coun., 92; 2 Bozman, 169. Ethan Allen, "Md. Toleration or Sketches of the Early History of Md. to the Year 1650" (1855), p. 29, states that Claiborne, as administrator of the Rev. Richard James, the Kent Island minister, brought into court at James City his inventory and account, and alleged that the Governor of Maryland had seized on the greater part of the estate of Mr. James and still detained it. James died at Sir Robert Cotton's in England in 1638, and curiously had been in Newfoundland when Baltimore was in Avalon. See Wood's Athenae Oxoniensis.

it is recovered, such order shall be taken with it as justice shall acquire."

Only testamentary court business is recorded during this time, there being a break in the other court records from 1638 to 1642. A few estates are settled, the details of whose inventories are interesting in giving glimpses into colonial life.[17]

St. Clement's Manor.

Mr. Thomas Gerard was granted, on November 3, 1639, a manor[18] bearing the name St. Clement's and with the usual power of holding a court leet and a court baron, and the territory of this manor, with some additional land, was erected into St. Clement's hundred, a proclamation making Gerard justice of the peace therefor and giving him the powers of any two justices of the peace in England, which was probably in order to permit him to punish offenders against the game statutes.[19] As conservator of the peace, Gerard was especially charged to punish offenders who destroyed herons on Heron Island, and unlawful traders with the Indians, and to see that the inhabitants were provided with necessary arms. John Robinson was appointed[20] constable and coroner of the hundred and directed to arrest offenders, especially such as "unlawfully trespass upon any our game of deer, turkeys, herons, or other wild fowl," sell to the Indians arms or ammunition,

[17] (1) Richard Loe, 4 Md. Arch., Prov. Ct., 57, 74; (2) Andrew Chappell, op. cit., 57, 90, 112; (3) Michael Lums (nuncupative will), 59, 60, 89, 111, Baldwin Calendar; (4) Wm. Wassell (Kent), 60, 90; (5) Henry Crawley, 61, 91 (guardian appointed for his legatee, 65, 66), Baldwin Calendar (nuncupative will); (6) Thomas Cooper, 64 (Kent ?); (7) John Glantham, 64, 92; (8) Richard Lee, 51, 76, 107, Baldwin Calendar; (9) Thos. Egerton, 89, 106; (10) Lawrence Mullock (Kent), 92; (11) Christopher Martin, 92. Baldwin adds John Speed, Leonard Leonardson, and Robert Cooper of St. Mary's, and Wm. Westly of Kent.

[18] 2 Bozman, 167; St. Clement's Isle and Heron Isle, and the mainland between Herring and St. Catharine's creeks (3 Md. Arch., Coun., 89) and extending northward five miles into the woods.

[19] 2 Bozman, 169.

[20] 3 Md. Arch., Coun., 89, 91.

or do not have ready sufficient arms. In England[20a] wild animals were the property of the lord, and Baltimore meant to enforce his claim to have them included among jura regalia of his Palatinate.

The Jesuits' Missionary Labors.

In order to obtain "an earlier acquaintance with the Indian language and propagate more widely the sacred faith of the gospel,"[21] the Jesuits scattered themselves. Father John Brock, the superior, and a coadjutor brother[22] remained on the plantation Mattapanient or Mattapany, given by Maquacomen, the Patuxent sachem, which plantation was their storehouse of supplies and was managed by Thomas Copley. Father Philip Fisher lived at St. Mary's, Father John Gravener at Kent Island and Father Andrew White at Kittimaquund, the seat of the Piscataways, one hundred and twenty miles away. He had devoted his endeavors for some time to achieve the conversion of the Patuxent chief, and at first had good hopes of success, but gradually the chief showed unfriendliness, not only to the new religion but also toward the whites in general. Calvert, therefore, recalled White lest the sachem should do him harm or, by

[20a] In 1639 the Lady Anne Arundel, Lord Baltimore's wife, died. A portrait of her by Van Dyck is said to be at Wardour Castle. Browne, George and Cecilius Calvert, 118.

[21] See B. U. Campbell, Sketch of the Early Christian Missions among the Indians of Md. 1 Western Cont., 13 (Mch. 28, 1846); Shea's Catholic Missions among the Indian Tribes, p. 483. See U. S. Cath. Hist. Soc., Proc., 1904, Earliest Jesuit Missionary Explorers in Md. & Me. 7 Md. Hist. Soc., Fund Pubs., 62. On Father White and the priests see Neill, Eng. Col., 266. Cotton, Way of the Congregational Churches Cleared, p. 80, tells an amusing story reported to him by the Rev. James, who went to Virginia on the Lord's work and was detained by winds in Maryland, where he saw forty Indians baptized in new shirts, which the Catholics had given them for their encouragement unto baptism. But he tarried there so long for a fair wind that, before his departure, he saw the Indians, when their shirts were foul and they knew not how to wash them, come again to make a new motion: either the Catholic English there must give them new shirts, or else they would renounce their baptism. Campbell's paper is reprinted in Md. Hist. Mag. for Dec., 1906.

[22] Probably Walter Morley, who came in 1638 with Father Ferdinand Pulton and died March 6, 1641. Father Brock was also known by the name of Morgan.

holding him as hostage, prevent Calvert from punishing the tribe for any hostility. Despairing of Maquacomen's salvation, Father White betook himself, in June, 1639, to the palace of the Tayac, the Piscataway chief, Chilomacon, who had slain his predecessor and brother, Uwanno, and who held sway over a territory stretching over about one hundred and thirty miles. At his wigwam, situated about fifteen miles south of the present District of Columbia, both the chief and his wife received the father kindly and held him in the greatest love and veneration, lodging him in their own wigwam, while the "queen" prepared meat and baked bread for him. Dreams and the favorable outcome of Father White's medical treatment of the Tayac caused him to wish baptism for himself, his wife, and his two daughters. He was diligently instructed by Father White, exchanged his raiment of skin for one made in European fashion, made a "little endeavor" to learn English, and put away his concubines, living "content with one wife that he may the more freely (as he said) have leisure to pray to God." He abstained from meat on fast days, was "greatly delighted with spiritual conversation" and seemed, to the good father, to esteem earthly wealth as nothing in comparison with heavenly. The character of the new convert was most edifying. In "a crowded assembly of the chiefs and a circle of the common people," Father White and some of the English being present, he publicly announced that it was his advice that they all "give their names to Christ." The priests hoped the conversion of the whole tribe would follow his baptism. Toward baptism the Tayac was especially inclined because of an incident which happened during a visit he and Father White made to St. Mary's. An Indian had been found guilty of the killing of an Englishman and had been sentenced to be hanged, though we have no record of the trial. The priests were striving to convert the condemned man and the Tayac aided them, not only as an interpreter, but also by adding arguments of his own. The prisoner was converted, baptized, and made a brave end. He

was then buried in the consecrated graveyard, to show the barbarians that Christians held dear the souls of repentant malefactors. The Tayac asked that he too might be baptized and, after consideration, the Jesuits determined to perform the rite with splendid display. The Tayac, therefore, returned home with Father White and the ceremony was performed in a bark chapel he had erected at Kittamaquund. So on July 5, 1640, the Tayac, with his queen, his infant son, and some of his principal men, was baptized. Previously his name had been Chitomachen or Chilomacon, now it should be Charles, and his wife was christened Mary. The Governor and Secretary were present, and in the afternoon the King and Queen were married by Christian rites and the great holy cross was erected, being carried to its place by the King, the Governor, the Secretary and others, while two of the priests chanted the litany in honor of the Virgin. Father White contracted a fever from over-exertion in these long services and was ill until the winter. In the spring the King brought his seven year old daughter to St. Mary's to be educated among the English, and to be baptized when she should understand the Christian religion.

One reason why the Jesuits had this hold upon the Indians was the fact that when famine prevailed among them, on account of the great drought of the summer of 1639, that "we might not appear to neglect their bodies" for the care of whose souls "we had made so great a voyage," the priests assisted to relieve their want of bread. So not only the Piscataways were affected, but the king of the Anacostans was anxious to live among the Jesuits.

Their work was not among the Indians alone. On the principal festival days of the year sermons were preached at St. Mary's and, on the Lord's Day, catechetical expositions were given. To these services not only Roman Catholics, but also heretics, came, and twelve conversions were recorded in 1639. To the sick, the afflicted, and the dying the priests gave counsel, relief, and assistance of every kind. In the summer of 1640 Father Gravener suf-

fered from some disease of his feet, so that he could not walk. He recovered from this, but was afterwards afflicted with an abscess and died on November 3. In this year portents were seen, confirming the minds of the faithful and terrifying the scoffers.

On July 5, 1641,[23] Father Brock died. He had been a man of great devotion to his work and wrote, "For my part, I would rather, laboring in the conversion of the Indians, expire on the bare ground, deprived of all human succor, or perishing from hunger, than ever think of abandoning the holy work of God for fear of want."

The Jesuits had also plans for education, and the English superior of the order wrote to Father Brock, on September 15, 1640, "The hope of your establishing a college, which you hold forth, I embrace with pleasure and shall not delay my sanction to the plan when it shall have reached maturity." Joyful letters are also extant which were sent from England because of the good news from Maryland.[24] The general situation of the religious point of view is well summed up by the historian Gardiner:

"In[25] Maryland the Protestants, slack in zeal and dependent for organization upon their Catholic leaders, in all probability, never thought for an instant of erecting a dominant church, whilst the Catholics, planted in the midst of zealous Protestant settlements on either side, and depending for support on the good will of the King, could not venture, even if they had wished it, to oppress their Protestant fellow colonists."

The Fourth General Assembly.

The fourth general Assembly of the Province was held at St. John's, near St. Mary's, from Monday, October 12

[23] Neill, Terra Mariæ, 70, 71. We must remember the presence of Copley, who was probably a priest and to whom Roman Catholics bequeathed slight testimonials. (See Wm. P. Treacy's Early Catholic Md.)

[24] B. U. Campbell's Hist. Sketch of the Early Christian Missions among the Indians of Md. 1 West. Cont., 13 (Mch. 28, 1846).

[25] 8 History of England, 180 and 181.

to October 24, 1640. On August 14 the Governor summoned[26] William Brainthwait, Commander of the Isle of Kent, to have chosen burgesses, from one to four in number, by the freemen of the island, and Giles Brent, Treasurer of the Province, to appear in person. Nearly a month later,[27] on Saturday, September 12, the freemen of St. Mary's hundred were bidden to appear before the Secretary and to choose one or two burgesses, and those of St. George's and St. Michael's to do the same before the sheriff. Those of St. Clement's should choose one burgess before John Robinson, high constable of the hundred. Personal summons was also issued to Thomas Greene and Fulke Brent. A week later a third summons was sent to Mattapanient hundred to choose one burgess, and a personal summons to Cuthbert Fenwick, as Cornwallis's attorney. Greene and Giles Brent were also elected burgesses, as was Lewger, the Secretary; Fulke Brent was absent, so that, with Leonard Calvert, the Assembly consisted of fourteen members.[28] After the organization of the House it rejected a proposition to have a bill drafted for "stinting the planting of tobacco," a proposition we shall encounter frequently throughout Provincial days. It was voted, however, to draw up a bill for "destroying of unsound tobacco." This act, the beginning of Maryland's inspection system, was passed, and provided that no tobacco should be exported from the Province until it was sealed by a sworn viewer, three of which officers should be appointed in every hundred by the commander of every county. The act, which was to continue in force for two years, provided for inspection fees, for forfeiture of uninspected tobacco, gave a definition of bad tobacco, and provided that such should be burned.[29]

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[26] 1 Md. Arch., Ass., 87. A different day was selected for each of the hundreds, and Brainthwait and Robinson were allowed to select the date of their elections.

[27] 1 Md. Arch., Ass., 88.

[28] From Kent were chosen Giles Brent, Thos. Adams, Thos. Allen, and Jno. Abbott; from St. Mary's, Thos. Greene and Jno. Lewger; from St. Michael's, Thos. Morris and Thos. Baldridge; from St.

On the same first day John Dandy was summoned to answer for some crime,[30] showing that the Assembly was still a court, and a proclamation was issued[31] prohibiting any person from going on board any vessel[32] importing goods to be retailed in the Province, or from informing any one connected with the vessel of the "rates or quantity of tobacco or want of goods within the colony, before liberty of trade proclaimed at the fort," nor then at a higher rate than that proclaimed, under pain of such punishment as the Assembly saw fit. The people on the vessel were also forbidden to "deal for any goods with any inhabitant," or to land, except at the Governor's landing place, before he gave license, on such penalty as should be thought fit.[33] Trade monopoly, for which the Pro-

George's, Francis Gray and Geo. Pye; from St. Clement's, Robt. Vaughan, and from Conception, Robt. Lusthead. Only seven men voted in St. Clement's. We have no other figures. The Assembly voted the clerk 5s. per diem and 12s. for every private bill and the sergeant-at-arms 12s. per diem. 1 Md. Arch., Ass., 90. The burgesses were to pay the fees and charge them to their counties.

[30] The viewer's oath is given in full. More attention was paid to this act than to any other. 1 Md. Arch., Ass., 98. The importance of the tobacco trade to the Province seems to make it worth while to repeat this definition: "Bad tobacco shall be judged ground leaves, second crops, leaves notably bruised or worm eaten, or leaves house burnt, sun burnt, frost bitten, weather beaten in the house, sooty, wet, or in too high case, so that the viewer on his conscience may reasonably think that it is not likely to last until midsummer following." Virginia had an inspection law in 1624. 2 Bozman, 176.

[31] 1 Md. Arch., Ass., 89, 92. He does not seem to have been tried by the Assembly but was condemned to death for some crime about this time, and on May 10, 1641, "upon the petition of a great part of the Colony," the Governor changed his sentence to "three years' service to the Lord Proprietary, wherewith the said Dandy was well contented." 3 Md. Arch., Coun., 98. He was a violent man and was finally put to death for murder, as we shall see.

[32] 1 Md. Arch., Ass., 90, signed Wm. Bretton, Clerk. His salary was changed on Oct. 22 to fifty pounds of tobacco, showing an exchange value of tobacco of ten pounds to the shilling. 1 Md. Arch., Ass., 93. At the same time the sergeant-at-arms' per diem allowance was lowered to 6s. 2 Bozman, 173.

[33] This proclamation seems to have been caused by some trouble about the pinnace belonging to Thos. Weston or Thos. Games. 1 Md. Arch., Ass., 91.

[33] 1 Md. Arch., Ass., 91. A tie caused a bill to fail. The rule requiring a day to intervene was rescinded Aug. 6, 1641. 1 Md. Arch., Ass., 105.

prietary had struggled from the first, was still held important, but the proclamation for some reason was reversed on the last day but one of the session. The rules were chiefly those of the third Assembly, but a new provision was made that a bill must be read three times on three days, a day being also interposed between each reading, and that when rejected on the second reading the bill might not be propounded again at the session. I have an idea that Baltimore had sent over a draft of acts, for we notice that the "draft of the acts upon the book" were read and no reference is made to the drafting of the acts. Further, the rules say that "at the session all the bills engrossed shall be read and severally voted." At least nineteen bills were rejected on October 23, and nine were passed besides the tobacco act.[84] The enactments were published under the great seal, on October 30, and may be classed as follows: The rights, liberties, franchises of "Holy Church" were affirmed. "Uncertain goods" escheated to the Proprietary and should be sold "at an outcry," half the proceeds going to the finder, but the goods might be redeemed within three years.[85] To provide against sudden accidents in the government it was enacted that the commission from the Lord Proprietary in force at his death should remain in force until a new commission should be sent, and the "First Councillor of State residing at St. Mary's" should exercise the office of lieutenant general if the Governor died or went out of the Province without naming a successor.[86] These were permanent laws.

[84] Five opposed it, but among them was the President, Calvert. 1 Md. Arch., Ass., 93. In every other case his negative was enough to defeat the bill, why not here?

[85] Bacon, in 1763, considered this law still in force, and 2 Bozman, 174, finds no repeal of it, but notes that Kilty does not print it as of force when he revised the laws in 1796, considering it as abrogated by the Revolution. The rights have undoubtedly passed to the State.

[86] 2 Bozman, 176.

[87] 3 Md. Arch., Coun., 98. On July 4, 1641, the sheriff of St. Mary's and the deputy surveyor were ordered to inspect the plantations in St. Mary's, St. Michael's, St. George's, and Mattapanient hundreds to find out whether the required amount of corn was planted. This act was probably passed as that of 1639, assigning no penalty for violation.

The temporary ones, enduring for two years, compelled planters to fence corn ground against cattle, forbade the exportation of corn, but required that two acres of corn be tended by every man planting tobacco,[37] regulated marriage, and placed the entire control over it in the secular authorities,[37a] fixed the outfit to be given indentured servants at the end of their term of service, and authorized county courts to "moderate the bills, wages, and rates of artificers, laborers, and chirurgeons." The Assembly had worked constantly, not even adjourning over Sunday, and had been harmonious, save that Thomas Adams[38] was censured and made to ask the Governor's forgiveness for "some indecent speeches touching the Lord Proprietary." Adams became so submissive and did such acceptable service as Commissioner of Kent Island that he was pardoned, on March 6, 1640–41, for "piracies" committed in the past.[39] When the work of the Assembly was complete the Kent Island men went home in the Speedwell, which had been waiting for them during four days,[39a] and a committee of three was left behind to assess the public charges.[39b] This custom became quite regular in later sessions.

Father More, the English Provincial of the Jesuits, writing to the Congregation for the Propagation of the Faith in 1642, said that the Assembly of October, 1640, was "composed, with few exceptions, of heretics," and that Lewger tried to pass laws "repugnant to the Christian faith and ecclesiastical immunities: that no virgin can inherit unless she marries before twenty-nine years of age" (in another part of the paper he says Lewger made this point against any "virgin making a vow of virginity and not marrying after the twenty-fifth year of her age"); that no ecclesiastic be summoned except before a secular judge, that "no ecclesiastic shall enjoy any privilege, ex-

[37a] Johnson, Foundation of Md., p. 63, thinks this was part of Baltimore and Lewger's policy against ecclesiastics.
[38] 1 Md. Arch., Ass., 92.
[39] 3 Md. Arch., Coun., 96.
[39a] 1 Md. Arch., Ass., 93.
[39b] 1 Md. Arch., Ass., 95.

cept such as he is ably to show ex Scriptura," nor gain anything for the church, except by the gifts of the Prince, nor depart from the Province, even to preach to the Indians, without a license from the magistrate, nor exercise jurisdiction within Maryland which is not derived from the Baron. He goes on to state that "the Fathers of the society warmly resisted this foul attempt," which firmness enraged Lewger so that he reported to Baltimore that his jurisdiction was interrupted by the Jesuits, which report alienated Baltimore's mind from them.[39c]

Events of 1641.

The records of the next year are very meagre, the court records giving us only one testamentary case and one marriage.[40] On November 9, 1640, Calvert issued a proclamation against forestalling, declaring that no one importing goods should deliver them until he had agreed on rates with the Governor, and, when the rates were agreed upon, they must not be increased by sellers. No one might buy goods to sell them again until seven days from the breaking bulk, if the goods came from a pinnace, and twenty-eight days, if they were from a larger vessel.[41] No goods bought in Virginia should be resold in Maryland without Calvert's permission. A copy of this proclamation must be affixed by the sheriff on the mast of every vessel which might come into his county. In the same month three men were appointed[42] "viewers" in St. Clement's hundred, and shortly thereafter the constable of that hundred, at the complaint of William Bretton, was directed to repair to the king of any Indian town whose men had done Bretton "much harm in

[39c] Johnson, 81; Dennis, 1 Am. His. Ass. Rept., 1900, p. 112, thinks this statement that the Assembly was under Protestant influence is incorrect, and that the opposition of the Roman Catholics, Brent, Gerard, and Greene, prevented the repeal of the laws inimical to the Jesuits; p. 117.

[40] Thos. Holt died. Richard Thompson and Ursula Bish of Kent married; 4 Md. Arch., Prov. Ct., 65.

[41] 3 Md. Arch., Coun., 94. The proclamation seems not to have been in force long.

[42] 3 Md. Arch., Coun., 95. See 1 Md. Arch., Ass., 97, act of 1640.

his swine" and demand satisfaction. If this was refused he should summon the king or great men to St. Mary's, telling them that if satisfaction were not made, Bretton would be given "free liberty" to "right himself upon any the persons or goods belonging to that town."

About March, 1641, Mathias de Sousa, an indentured servant of Lewger,[43] was appointed by Capt. Alexander Pulton to go in his place as shipper and trader to the Susquehannocks and to hire men at Kent for the voyage. At Kent he hired John Prettyman with Brent's consent. Prettyman was on the voyage for two months lacking three days, and de Sousa later testified that he believed the pinnace and men were saved from destruction by the Susquehannocks by Prettyman's means. On December 7, 1640, Calvert notified the sheriff of Kent, in which island new patents were given the settlers by Baltimore in 1640, that he must demand of the settlers there the rent due, namely, twelvepence yearly for every fifty acres,[44] or four pounds of tobacco, or a peck of wheat. Those that held land granted by Claiborne for a rent of two capons might have that rent commuted to sixteen pounds of tobacco or a bushel of wheat.[45] This makes each capon worth two shillings, which Bozman points out was near the Shakespearean price of two and six.[46]

A commission of May 8, 1641, authorized Brent to hear and decide all cases in Kent Island in which Brainthwait, the commander, was interested,[47] and, on July 10, fearing trouble with the Ozinies[48] or some other neighboring Indians, all persons in the Province were forbidden[49] by Calvert to harbor, or entertain, any Indian, under penalty of punishment by martial law, and the Kent Islanders were

[43] 4 Md. Arch., Prov. Ct., 138.
[44] The 1636 Conditions of Plantation provided for a payment of ten pounds of wheat for fifty acres; 3 Md. Arch., Coun., 47.
[45] Tobacco thus is worth 3 d. per pound; 3 Md. Arch., Coun., 95.
[46] He also points out that the value of wheat in England by the Statute of 21 Jac. 1, ch. 28, sect. 3 (1624), was the same as is here given in Md. 2 Bozman, 181.
[47] 3 Md. Arch., Coun., 97.
[48] 2 Bozman, 183.
[49] 3 Md. Arch., Coun., 98.

authorized to "shoot, wound, or kill any Indian coming" upon the island. Calvert had just returned from Virginia[50] when he issued this proclamation, having left Cornwallis early in May in possession of all the powers of governor except those of remitting and pardoning offenses.

The Assembly of 1641.

The Assembly had been prorogued in October[51] to January, 1640–1, but on December 7 the Governor extended the prorogation, and the second session of the fourth Assembly finally came together at St. Mary's[52] on August 2, 1641. Thomas Gerard of St. Clement's Manor was summoned personally, but was also chosen as a burgess of the hundred[52a] and took the place of Robert Vaughan, who had been formerly chosen as his attorney. Vaughan appeared on August 5 and was refused his demand "to have voice in his own person." The Kentishmen thought they had paid too much for their representation in the first session and now sent only Giles Brent and Adams; St. George's hundred sent only one burgess,[53] and Conception asked Mr. Fenwick to "answer for us at the Parliament."[54] Fulke Brent came, however, and the House numbered eleven men. Calvert was anxious to have passed two bills for the "confirmation of his Lordship's patent" and for an expedition against the Indians, but could find no support except Lewger for the former and Lewger and Fulke Brent for the latter. The Assembly declared that, in causes in which the Lieutenant General was plaintiff, he might grant writ just as when another was plaintiff, to warn the defendant to do right, or else "have him before the judge."[55] Two bills were passed

[50] 3 Md. Arch., Coun., 98.
[51] 1 Md. Arch., Ass., 103.
[52] A description of St. Mary's and St. Inigoes by Edward C. Bruce will be found in 8 Lippincott's Magazine, 36.
[52a] Five names are signed to the return. 1 Md. Arch., Ass., 105.
[53] Sixteen men signed return that they wished Geo. Pye alone as their representative. 1 Md. Arch., Ass., 104.
[54] Three men signed the request. 1 Md. Arch., Ass., 106.
[55] 1 Md. Arch., Ass., 106.

which were apparently introduced by the Governor:[56] one, an act inflicting the penalty of death and forfeiture of goods, or of seven years' servitude, on fugitive apprentices;[57] and a second fixing the Winchester bushel as the standard measure of the Province.[58] A third bill, introduced by Giles Brent and opposed by Lewger and Greene, was passed, "touching probate of wills and administrations," and the Assembly was prorogued. The probate act[59] revoked former laws by which the county court had this jurisdiction, and provided that the Lieutenant General or his deputy should prove wills and exercise testamentary jurisdiction according to the laws of England, and where they were "doubtful, then according to equity and good conscience." Lewger had previously exercised the ministerial duties of the probate court, and probably continued to do so as the Governor's deputy. The control of testamentary causes by a lay tribunal instead of by an ecclesiastical one is one of the many proofs of Baltimore's freedom from clerical influence.

The prorogation was until January, but in October Calvert summoned the Assembly to meet immediately. Before it met, however, he went to Virginia and, by successive prorogations issued by Lewger, the meeting was postponed until March.[60]

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[56] 1 Md. Arch., Ass., 107.

[57] Receiving runaway servants was declared no felony.

[58] The barrel should contain five bushels. 2 Bozman, 187, calls attention to the almost exactly contemporaneous passage of the English standard act, 16 Car. 1, ch. 19. The law was to continue for two years.

[59] 2 Bozman, 188. The administrator was to have ten per cent. of the estate and his charges. The Lieutenant General was to administer estates where no person claimed the right, and in that case the Council were the judges, and if necessary he might name new Councilors for that purpose. The act should continue for two years.

[60] 1 Md. Arch., Ass., 113. 5 Thurloe's State Papers, 482, cited in 1 Scharf's Md., 165. Objections to Lord Baltimore's patent, among them, that laws are made by the Proprietary and a Privy Council composed mostly of Papists. In May, 1641, Baltimore's friend the Earl of Strafford was beheaded.

The Conditions of Plantation of 1641.

On May 6, 1641, the Governor and Council[61] made an assessment for public charges, which Calvert in October ordered the sheriffs to collect. The levy is said to be "according to the act of General Assembly in that behalf made and provided," but I have found no such act. About this time Baltimore sent over new Conditions of Plantation[62] to go into effect March 25, 1642. The benefits of these offers[63] are limited to persons of British or Irish descent, and the persons brought in must be of the same nationalities. To receive a grant of a manor, now limited in size to two thousand acres, twenty able persons, either men between the ages of sixteen and fifty, furnished with arms and ammunition according to an itemized list, or women between the ages of fourteen and forty, must be brought into the Province in one year. For the manor there must be paid a quit rent of forty shillings sterling yearly "in the commodities of the country." In case smaller numbers of persons be transported, fifty acres in some manor are given for each person, on a like quit rent of twelvepence yearly, and, for each person brought in under age, twenty-five acres are granted on payment of sixpence yearly. All such grants must be claimed within a year of the time they are due. It will be seen that Baltimore retained his aristocratic plans for his colony. In connection with these Conditions of Plantation[64] we gain a very interesting light on the struggle between the Proprietary and the Jesuits. He was so dissatisfied with their conduct in the Province that he petitioned the Congregation for the Propagation of the Faith "to grant a perfect and secular priests authority to take charge of the

[61] 3 Md. Arch., Coun., 99. October 8, Wm. Hawkins was licensed "during pleasure" to keep "an ordinary victualling house at or near St. Mary's."

[62] Dated Nov. 10, 1641. 3 Md. Arch., Coun., 99. Johnson, 65.

[63] Kilty, Land-Holder's Assistant, pp. 68, 70, 78, gives records of servants brought in, and of the patents for land given in return therefor.

[64] Johnson, p. 64, Foundation of Md; E. D. Neill, Light thrown by the Jesuits upon hitherto obscure points of early Md. hist., 5 Pa. Mag., 51.

Maryland Mission." This petition was granted in August, 1641. Baltimore was allowed to remove the Jesuits, and the authority to take charge in Maryland was issued to Dom Rossetti, Archbishop of Tarsus. Had this plan not been reconsidered Maryland might have seen a Roman Catholic bishop a century and a half before John Carroll. While preparing for the ecclesiastical changes, Baltimore issued these Conditions of Plantation, and to the provision spread at large on the Maryland Archives the Jesuit records at Stonyhurst add two more, which carried into operation in Maryland the provisions of the English Statutes of Mortmain.[65] These omitted sections[66] decree that "no corporation, society, fraternity, municipality, political body (whether it be ecclesiastical or temporal)" may possess lands in their own right, or that of others, without "special license first had" from the Proprietary. All grants made to such bodies without license "shall be, by the very fact, void," and no person shall grant lands to such bodies, or for any use prohibited in any English Statute of Mortmain, without similar license. With these omitted provisions there is an oath to be administered to all who receive lands before the granting of patents, in which oath, after acknowledging Baltimore to be "true and absolute Lord and Proprietary," the recipient of land swears that he will not possess any lands by virtue of any grant from the Indians, or any other person not legitimately deriving a title from a Proprietary grant, nor will delay to inform Baltimore, or his governor, in case he knows "that any other person acts contrary to this."

The Jesuits and the Land.

After the receipt of these Conditions of Plantation Calvert and Lewger called on the "religious men" in order to treat of these difficulties.[67] The Governor, in speaking of

[65] Of mortmain, see Johnson, 181.
[66] Johnson, 67. Why were not these later provisions entered on the Council minutes?
[67] Johnson, 69.

the publication of the Conditions, said that he interpreted them to mean that the grants already made were not included, but that the articles only meant that no one should be allowed to profit by these Conditions unless he would submit all his property, both that already granted and that hereafter to be granted, to the condition of non-alienation. Calvert was worried lest he be excommunicated by virtue of the bull, Coena domini, if he promulgated the Conditions, but the fathers said that, with this interpretation, he would not incur the penalty, as the Conditions were no new edict but "a mere proposition left to each one's choice." He was also worried lest, even though he did not incur excommunication, he should be guilty of mortal sin in promulgating his brother's Conditions, and the religious men thought it would be a mortal sin, but would examine the matter more maturely. They felt that, at any rate, the oath could not be taken with a safe conscience, but would cause both giver and taker to be excommunicated, and that, if the Conditions meant that no ecclesiastical society could take advantage of them, then to promulgate them would bring excommunication on the Governor's head. The bull above referred to asserted for the Pope full supremacy over all powers and persons, temporal and ecclesiastical, forbade any one to violate the ecclesiastical liberties or rights of the Church of Rome, and declared that ecclesiastical persons should not be subject to secular tribunals. The binding force of this bull, however, was denied by the Parliament of Paris and by many English Roman Catholics.[68]

Lewger next propounded questions on propositions of Canon Law:[69] (1) Can a Roman Catholic layman hold office in a region where the Church cannot preserve all its laws; (2) are the clergy's privileges due by divine law or from the gift of princes and states, and can the temporal authority oppose the clergy's privileges without sacrilege, if they have

[68] Streeter, Md., Two Hundred Years Ago (1852), p. 32.

[69] Johnson, 71. Father More in a letter to the Congregation for the Propagation of the Faith spoke of Lewger as having retained yet much of the leaven of heresy. Johnson, p. 80.

not been conferred by princes; (3) is the erection of ecclesiastical tribunals, "with power of external compulsory jurisdiction," to be by virtue of Baltimore's own authority or by special commission from the Pope; (4) can Roman Catholics who are in the Provincial Legislature give consent to laws about testamentary causes, especially if the laws declare that the goods of the deceased "go to the public use of the temporal State and not to pious purposes, as is done in Catholic countries;" (5) can such Roman Catholics consent to a law prohibiting the bequeathing, or otherwise aliening, of land to spiritual persons without leave of the Prince; (6) can such Roman Catholics consent to laws of matrimonial causes, such as were passed by the Assembly of 1640; (7) can such Roman Catholics consent to a law which prohibits a woman from being heir to lands and from holding them, unless she marry within a limited time; (8) can a secular Roman Catholic judge in Maryland examine and punish clergy, so far as the loss of life and limb, without excommunication; and (9) can Roman Catholic legislators consent to laws imposing taxes "for sustaining the Prince or defending the Province, on ecclesiastical persons and church lands;" are such persons and lands included in such laws when they are not in the law excepted, and can a secular Roman Catholic judge issue process imposing such taxes on such persons or goods, without an express license from the Pope? Father White[70] wrote a full account of this interview to the Provincial of England, Henry More, a descendant of Sir Thomas More, and expanded Lewger's nine queries into twenty. The country is "newly planted" and depends "wholly upon England for its subsistence," there is "no ecclesiastical discipline established" nor can there be while England is a heretic nation, no Provincial Synod has

[70] Johnson, 73. The nine questions of Lewger are modified in White's draft and correspond as follows: 1–1, 2–3, 3–4, 4–8, 5–9, 6–11, 7–13, 8–18, 9–19. On the struggle with the Jesuits see also Thomas, Chronicles of Colonial Md., p. 87. Shea, Colonial Church, p. 61, quotes a letter of Peaseley and his wife in September and October, 1642, to the Jesuits, stating, "I have prevailed for the present employment of two of yours."

been held nor spiritual courts erected, nor have the Canon Laws been accepted nor clergymen admitted as such, nor is the Catholic religion publicly allowed. The situation is a perplexing one and "three parts of the people or four (at least) are heretics." Father White's additional queries deal with these points: (2) Must lay Roman Catholics in Maryland accept the Canon Law before it be accepted by some local law; (5) do testamentary causes belong to the spiritual court of the "Church's proper right," or did princes of their voluntary election sever their causes from the Crown either because of a connection between the causes and Christian doctrine, or from a presumption that the church would faithfully discharge the trust; (6) may lay judges act in testamentary matters by commission from the Proprietary, or must they obtain delegation from the Pope, on pain of excommunication; (7) may a Roman Catholic in Maryland refuse to prove a will because it contains a statement by the testator that he is a faithful member of that Church, or because it gives legacies for masses to be said for the soul of the deceased, or is he bound to prove it, though the Lord Proprietor may incur danger for such a record; (10) must a Roman Catholic executor follow the order of marshaling assets prescribed by the English law or that of the Canon Law, by which the debts due to spiritual persons were paid before those due laymen; (12) may Roman Catholic legislators consent to a law prohibiting the marriage of apprentices without the master's consent; (14) does land granted by the Lord Proprietor to religious persons, by that very fact, become exempt from lay burdens; (15) if one trespass on the lands of the clergy may they put in force the censures of the Bull Coena without or before proceeding against the trespasser in some court, spiritual or temporal; (16) may ecclesiastical persons be summoned into the Assembly and into court, and may a Roman Catholic secular judge give sentence and issue execution against them without excommunication; (20) may the General Assembly make laws to dispose of the clergymen's interests when they are neither pres-

ent nor represented by proxy (though they were summoned), nor hold Provincial Synods where they might give their consent to the laws?[71]

Minor Matters in the Winter of 1641–1642.

In January, 1641–2, Brent was appointed judge of all causes in Kent,[72] and Boteler was authorized to sit in cases in which Brent was interested. In March John Langford was appointed surveyor general for his natural life,[73] so that the new grants of land might properly be laid out.

In addition to a marriage bond and a testamentary matter,[74] the court records reveal the troubles that planters, varying in importance from Mrs. Brent and Lewger to some very plain people, had with three Irishmen, who owed the complainants money but "feloniously ran out of the Province, with intent never to return again." Judgment was given against the Irishmen[75] and their estates in Maryland were divided, so that each plaintiff received a little more than a third of his debt.

The Assembly of March, 1641–1642.

As many of the laws had been passed for a two years' period, which would soon expire, Calvert now determined to call a new Assembly.[76] At first he sent out writs of election similar to those of the fourth Assembly, but for some reason changed his mind, and on March 2, 1641–2, summoned all freemen to appear in person, or by proxy, at St. Mary's on March 21. On that day came together forty-one men; all of the seven Councilors were included but Gerard.

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[71] Shea, Colonial Church, p. 68, suggests that Baltimore again applied for secular clergy in 1645.

[72] 3 Md. Arch., Coun., 101.

[73] The term for life is a unique one in Maryland.

[74] John Ormsby and Frances Griffin. 4 Md. Arch., Prov. Ct., 67. Christopher Martin, op. cit., 66, 92.

[75] 4 Md. Arch., Prov. Ct., 67.

[76] The proclamation was not sent to Kent until Mch. 13. 1 Md. Arch., Ass., 114–116. He had personally summoned the Councilors: the Brents, Cornwallis, Lewger, Greene, Jno. Langford and Thos. Gerard.

Two men came from Kent, one from an unknown part of St. Mary's County, five from St. Mary's hundred, twelve from St. George's, eight from St. Michael's, one from St. Clement's, and six from Mattapanient.[77] Twenty more from the Western Shore were represented by proxies held by five men, and seven of those present appointed proxies and left.[78] On the second day three more came from St. Clement's, one from St. Michael's, two from St. George's, and one from Kent, while on the third and last day four more from Kent, two from Mattapanient, one from St. Michael's, and one whose residence is unknown were added.

The Long Parliament was in session, the civil war which was to destroy the English monarchy for a time had begun. In May, 1641, the English statute declared that the King should no more prorogue nor dissolve Parliament, and an echo of this act was heard in the Maryland Assembly when, after calling the roll and reading the "bill for the support of the Government, with general consent" the House voted that it might not be adjourned or prorogued but by and with its consent.[79] As a result, the House "adjourned itself" daily, and the Governor "dissolved" it after another assembly was appointed to begin[80] on June 1. Lord Baltimore, though a Roman Catholic, took a studiously neutral position throughout the whole struggle in England, and his brother in Maryland preferred to bend rather than break. The suspicion felt toward the executive of the Province was also shown by the Assembly's refusing to entrust an expedition against the Indians to the discretion of the Governor and Council.[81] Two other acts failed, one for the planting of

[77] Three came late.

[78] On no day does the attendance seem to have exceeded forty. The clerk was allowed fifty pounds of tobacco per diem during the session and two days before it began and two days after it ended. 1 Md. Arch., Ass., 122.

[79] 2 Bozman, 195, calls attention to the fact that the Governor in the earliest assemblies seems to have adjourned the houses from day to day.

[80] 1 Md. Arch., Ass., 121. The Assembly did not actually meet until July. The act of 1642, ch. 4, provided that the next Assembly should begin on Nov. 12, unless sooner called.

[81] 1 Md. Arch., Ass., 118.

plenty of corn and one "to prohibit the exportation of deer skins, to the end that they might be dressed in the country." This protection to an infant industry was postponed because "the leather dresser could not undertake to take of all the deer skins in the country till he had provision of tallow, etc., out of England."[82] Three bills were passed. The first[83] continued in force till the next Assembly certain portions of the act of 1639, and ratified any judicial proceedings had since the session of 1640 which violated no law of the Province. The second act, granting a subsidy to the Proprietary,[84] was passed unanimously and signed by Cornwallis and Giles Brent in behalf of the freemen before Calvert "enacted" it in "his Lordship's name."[85] This act shows a warm feeling of gratitude to Baltimore,[86] who is said to have spent £40,000 on the Province in the first two years of its settlement. Chalmers wrote: "This donation does equal honor to both" Proprietor and freemen "because it shows that one had merit and that the others were grateful." The preamble states that the freemen "desire to return his Lordship some testimony of their gratitude" for his "great charge and solicitude in maintaining the government and protecting the inhabitants in their persons, rights, and liberties, and to contribute, so far as the young and poor estate of the Province will yet bear." They therefore enact that fifteen pounds per poll be contributed before November 10 for every inhabitant, freeman or servant, above the age of twelve years.[87] The last act was a mere repetition of the act against fugitives of the preceding session.[88]

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[82] 1 Md. Arch., Ass., 121.

[83] 1 Md. Arch., Ass., 122, viz: concerning the rights of the Lord Proprietary, and the people's liberties, the power of judicature, the captain of militia, officers' fees, the settling of the house of Assembly (2 Bozman, 203, calls attention to the fact that this provided for a representative body and not a mass meeting), the payment of debts and the custom duty on tobacco.

[84] 1 Md. Arch., Ass., 123.

[85] 1 Md. Arch., Ass., 118, 120.

[86] Chalmers' Annals, 208.

[87] Masters must pay for servants, and distraint is provided for any one's failure to pay the subsidy.

[88] 1 Md. Arch., Ass., 124. A committee of six (two from Kent) was appointed to assess charges of the session.

In addition to its legislative business this Assembly had several matters of a judicial nature before it. John Medley petitioned that John Hallows deliver him some cattle, which delivery was ordered by the House after a committee reported favorably upon the petition.[89] Other petitioners did not fare so well. Ingle was told that Giles Brent should not be held liable for a direction to the sheriff for serving an execution.[90] John Wheatly was answered[91] that he had not proved that Cornwallis had refused to provide him and his wife with the necessaries which he was bound to give, Robert Nicholls and John Hampton were left to the ordinary course of law,[92] Thomas Morris was told that the conduct of Richard Thompson toward him would be "champerty by the law of England, but not such as is criminal here."[93] A more important petition than any of these was one presented by David Wickliff, in the name of the Protestants,[94] complaining that Mr. Thomas Gerard had taken away the key of the chapel and had carried off the books[94a] from it. The Assembly heard both sides and decided that Gerard was guilty of a misdemeanor, and that he should bring back the key and the books and relinquish all title to them or to the house, and should pay as fine five hundred pounds of tobacco toward maintaining the first minister that should arrive. These proceedings seem to show three things,—the scrupulous care of the authorities to preserve freedom of worship, the early erection of a Protestant meeting-house in St. Mary's County, and the fact that there was as yet no Protestant clergyman or minister on the Western Shore.

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[89] 1 Md. Arch., Ass., 118, 119.

[90] 1 Md. Arch., Ass., 120. The Governor announced the date of coming court days.

[91] 1 Md. Arch., Ass., 121.

[92] Which they do not seem to have taken.

[93] This is an early instance of the selection of what English statutes shall be held in force in the Province.

[94] In one place the record calls the petitioners "Protestant Catholicks," probably a careless pleonasm of the clerk. 1 Md. Arch., Ass., 119.

[94a] 2 Bozman, 200, guesses that the books were prayer-books; they may have been Bibles.

Events in the Spring of 1642.

During these years the English Civil Wars had begun, the Long Parliament was in session and was throwing down one after another of the institutions of the monarchy. Though Maryland was soon to become involved in the troubles of England, we have heard not a rumor of trouble in the Province as yet. Baltimore, whose wife, the Lady Anne Arundel, was of a strong Royalist family, seems to have held himself neutral throughout the whole combat. In carrying out this principle of neutrality he was thought to desire to leave England for Maryland in March, 1642; a writ of *ne exeat regno* was asked against him, and he is said to have given bond not to leave the kingdom without the Lords' permission.[95] In the spring of 1642 Thomas Adams and Capt. John Boteler,[96] two of the most prominent citizens of Kent Island, died. On August 2 Brent succeeded Brainthwait as commander of Kent, and William Ludington and Richard Thompson were appointed as his commissioners, with "all the powers of the Commissioners of a County."[97] Troubles with the Indians occurred again this summer. Robert Evelin was made captain of the English in Piscataway[98] on June 25, and on the same day William Blount received like commission in St. Mary's County. Orders were proclaimed that no man shall entertain any

[95] 2 Bozman, 192. 3 Md. Arch., Coun., 102. An attempt to restore the Va. Company was unsuccessful this year. 2 Bozman, 211. Neill, Terra Mariae, 106.

[96] 4 Md. Arch., Prov. Ct., 68, 69, 99, 128. That same spring and summer these estates came before the Court: (1) Henry Wood, op. cit., 69, 96; (2) Wm. Westly of Kent, op. cit., 70 (nuncupative will, Baldwin Calendar); (3) Richard Lusthead, 71, 94, 95; (4) Thos. Charinton, 71, 95; (5) John Machin, 71, 95, 154; (6) John Cockshot, 72, 96, 145, 147; (7) Leonard Leonardson, 94.

[97] 3 Md. Arch., Coun., 104; Robert Vaughan was added to the commission on Dec. 16, op. cit., 124.

[98] 3 Md. Arch., Coun., 103. The commissions are given in full and differ in their detail. This step is the initial one for the establishment of a second county on the Western Shore. Wm. McFenin was made sergeant for St. George's hundred. 3 Md. Arch., Coun., 104. On Oct. 17 he was made sergeant for the several hundreds of the county (op. cit., 118). I regret to find that he was sued for debt, as a notorious fugitive, in December. 4 Md. Arch., Prov. Ct., 163.

Indian, nor permit him to have a gun or ammunition. Householders must provide gun, powder and shot for each man able to bear arms. No man may discharge three guns in a quarter of an hour except to give alarm. When such alarm is heard every housekeeper is to continue it as far as he may. No man able to bear arms may go to church, or chapel, or any considerable distance from home unarmed. A messenger was sent to the great men of the Patuxents and of the nations joined to them to bring before the Governor the Indians who had done Simon Demibiel or Henry Bishop "injury in their swine."[99] While matters were in this excited state the Assembly met.

The Assembly of 1642.

On April 4, 1642, Calvert called a new Assembly, the sixth, to meet on June 1, consisting of one or two burgesses for each hundred.[100] For some reason he postponed it and, by proclamation dated July 1, called it for Monday the eighteenth of the month. The elections took place in St. Mary's on the Saturday before, and personal writs were issued to Cornwallis, Giles Brent, William Blount, John Langford, Thomas Gerard, Robert Evelin, Cuthbert Fenwick, Robert Clerk, and William Bretton, all of whom but Brent, who had given Cornwallis his proxy, appeared on the first day of the session. We learn that members from the hundreds need not live in the one they represented, since David Wickliff, planter, of St. Mary's,[101] sat for St. George's with George Pye. The other burgesses were Thomas Greene, gentleman, and Nathaniel Pope, planter, of St. Mary's; Thomas Sterman, cooper, and John Langford, carpenter, of St. Michael's; William Brough, of St.

[99] 3 Md. Arch., Coun., 104. Vide Calvert's letter from Baltimore.

[100] Cyprian Thorowgood, sheriff of St. Mary's County, summons all the freemen save on St. Clement's Manor, where Gerard summons them; Giles Brent summons the Kent Islanders. 1 Md. Arch., Ass., 127–129.

[101] He was taxed in St. George's. 1 Md. Arch., Ass., 128, 144.

Clement's, and Henry Bishop,[102] from Conception. Richard Thompson and Robert Vaughan, who appeared for Kent County (a new term for the Island) with proxies, were refused admission until they showed Brent's letter that they were also chosen as burgesses. The Assembly continued in session[103] until August 1. On the next day the committee of six, appointed to assess the charge of the session upon the hundreds, met and heard the demands of the burgesses. Apparently those personally summoned received no pay.[104] An allowance of forty pounds of tobacco daily for thirteen days was made to each burgess, save to those from Kent, who were allowed for twenty days, probably to cover their travel, and to Henry Bishop, who was allowed for fifteen days. The Kentishmen were also allowed for hire of a boat for three weeks and for wages and diet of a servant. The charges of the clerk and the drummer were apportioned among the hundreds, and the full list of taxables and the levy against each is given. From this we learn that there were twenty-nine men taxpayers in St. Mary's, thirty men taxpayers in St. George's, twenty men taxpayers in St. Clement's,[105] forty-five in St. Michael's, fourteen in Mattapanient and seventy-one in Kent County.

This was an important session. On the first day Robert Vaughan, speaking for the burgesses, asked that they might sit "by themselves and have a negative," but Leonard Calvert refused this.[106] On the next day a compromise was made, repealing the previous law as to the quorum of the

[102] He first claimed admission from St. Leonard's hundred, alleging it was recognized on the probate of a will, but he was told no writ was issued to it and it was not yet created a hundred. 1 Md. Arch., Ass., 130.

[103] Except on Sundays and on Monday, July 25.

[104] 1 Md. Arch., Ass., 142–146. Lewger was chairman; all the other members were burgesses. The treasurer was ordered, "on motion of the freemen," to bring in his accounts at the October court. On Lewger and Cornwallis's plantations at St. Mary's and the famous old mulberry tree there, see Thomas' Chronicles of Col. Md., 24 and 55.

[105] Gerard is not taxed nor is any one personally summoned.

[106] 1 Md. Arch., Ass., 130.

Assembly[107] and fixing it for this and the next Assembly at ten, including the Lieutenant General and at least six burgesses,[108] unless sickness prevented so many from coming together, in which case the members present should "make the house." When this was read as a rule of the House Lewger said it was contrary to a previous law and should be considered as a bill, which was done.[109] On August 1 a bill was passed, against the votes of eight out of ten of the burgesses. Greene protested that the major part of the burgesses must vote aye to carry the bill, but his point was overruled in reference to this bill, and it was held that the major part of both those personally summoned and of the burgesses carried a measure.[110]

There was quite a little friction between Calvert and the burgesses. On the day when they found they could not sit separately they expressed a "great opposition"[111] to a march against the Indians. Calvert told them plainly, "I do not intend to advise with you, whether there should be a march or not, for that judgment belongs solely to me, as appeared by the clause of the patent touching the power of war and peace, but to see what assistance you will contribute, in case I should think fit to go."[112] Lewger moved that a bill be drawn for the levying of twenty pounds of tobacco per head toward the charge of the expedition. "First," answered the burgesses, "let us have the patent to peruse and respite till morning." Their caucus must have decided against the expedition, for we hear no more of it, and another step was taken toward shearing Baltimore of some of the privileges conferred by his charter.

[107] Laws of 1638, ch. 1 and 2. 1 Md. Arch., Ass., 81–82.

[108] 1 Md. Arch., Ass., 131, 132, 146; 2 Bozman, 216, calls attention to the fact that of the twenty-one members the burgesses numbered ten, so a measure could be carried with all of them against it.

[109] 1 Md. Arch., Ass., 141.

[110] Cornwallis had a proxy for Giles Brent at the beginning, and on July 22 showed one for Fenwick. Lewger was made proxy for Gerard on the twentieth.

[111] 1 Md. Arch., Ass., 130.

[112] Charter secs. 12 and 13 bear out Calvert's contention.

At sunrise the drum beat and at each half hour thereafter. At the third drum-beat the House met[113] and absentees were fined, unless excused by the Governor for absence at this early hour. No bill might be read more than once a day, nor could a member speak more than once a day to any bill without the Governor's consent. At 3 p. m. daily a committee, composed of Cornwallis as chairman, Lewger, Evelin, and four burgesses,[114] sat to consider all bills and petitions. There seem to have been few petitions.[115] After three days the committee was discharged, and the bills and petitions seem to have been considered in full house.[116]

At this session Calvert first exercised the veto power, and a reflection of the English phrase, "le roi s'avisera," is found in his statement, when the House would not agree to amendments he desired, that he will take "time of advising" concerning the act for "right of the Lord Proprietary[117] and liberty of the people," and concerning the acts[118] "for taking of boats," for "delivering arms to Indians," and "touching the house of Assembly." Several other bills failed to pass the House, but it managed to put on the statute books thirty acts, besides revising the table of fees for secretary of the Province, clerks of county courts, surveyor general, and sheriff (who also acted as coroner).[119]

The Assembly[120] renewed the five per cent. duty on

[113] 1 Md. Arch., Ass., 131. No one should use "indecent, taunting, or reviling words to the naming or personating of any member, or misbehave himself in speech," on pain of censure.

[114] Six were named, of whom four could sit at any time. 1 Md. Arch., Ass., 132.

[115] George Binks asked unsuccessfully for a public salary "to the finding of a chest," Henry Bishop asked a remedy against the Indians of Patuxent for killing his swine, and was told to prove his case first, and three other petitions of unknown import were answered. 1 Md. Arch., Ass., 134, 136, 141.

[116] 1 Md. Arch., Ass., 133, 136. Calvert, on July 20, had given the committee power to summon persons, administer an oath and imprison for contempt.

[117] Cornwallis, as Brent's proxy, cast the only vote against this bill. 1 Md. Arch., Ass., 136.

[118] 1 Md. Arch., Ass., 139, 140.

[119] 1 Md. Arch., Ass., 162. All fees were paid in pounds of tobacco.

[120] 1 Md. Arch., Ass., 146, 182. 2 Bozman, 245, suggests that the Dutch trade may have brought in revenue therefrom.

tobacco till the end of the next Assembly, to which period nearly all its laws were limited. The judicial system was organized by several acts. Judges shall be appointed by the Governor, cases "not limited by any certain law of the Province" shall be decided by the Governor and Council in the Provincial court, now first clearly differentiated from the county court, or by the Governor or Commander and Commissioners of the county courts.[121] If the judges vote equally, the judgment of the chief is to prevail. An oath must be taken by a judge, before he assumes office, to "administer equal justice to all persons, according to the laws of their Province." No mention is made of those of England. If the chief judge is absent, or interested in the case, the next in commission shall take his place. The Governor may sit, though interested in the decision. In civil cases "right and just" must be "determined, according to the law, or most general usage of the Province, or former precedents of the same or the like nature."[122] In default of those, "right and just shall be determined according to equity and good conscience, not neglecting (so far as the judge or judges shall be informed thereof and shall find no inconvenience in the application to this Province) the rules by which right and just useth and ought to be determined in England in the same or the like cases." Thus early did the colonists claim the right

[121] 1 Md. Arch., Ass., 147, 183. When the law was reënacted in September the Governor is dropped from the list of those who sit in the county court, and it is clearly stated that the latter tribunal must not exceed their commission and that there is an appeal therefrom to the Provincial court. It is then further provided that the Governor, any Councilor, or Commander of Kent may correct offenses which a justice of the peace may determine in England, and that the judges sitting must not be interested in the decision of the case. If the other judges are absent from the county, the chief judge may sit alone. The Governor is not suable for his official acts, and no execution may be accorded against him nor against "his necessary menial servants" in such cases, while strict limits are placed to process against his goods and chattels.

[122] 1 Md. Arch., Ass., 147, 184. In September there was added a prohibition to outlaw or exile, or to fine any one above one thousand pounds of tobacco, without Provincial statute, or to punish corporally a gentleman.

to determine what laws of the mother country were applicable to and should be used in Maryland.

Crimes were to be punished according to Provincial statute, and when there was none such and the offense did not involve a punishment depriving the offender of life, member, or freehold, the court should determine "according to the best discretion of the judge or judges, judging as near as conveniently may be to the laudable law or usage of England."[123] Appeals were allowed, on giving security to the trial court to prosecute the same and abide the decision above. If the higher court found no cause of appeal, they might give treble damages[124] to the "party grieved." The order of hearing and determining causes was fixed,[125] and the dates of court days were established, to St. Mary's being given six such days, and to any other county eight.[126] Provision was made to prevent justice from being defeated when the defendant failed to appear, was not in the Province, or had fled from it.[127] The forms of proceeding were to be fixed by the courts[128] "as near as conveniently they may, to the former precedents and usages of the court" and, in defect thereof, to the forms of England. The rules of evidence and the methods of summoning a jury[129] were determined. The effect of set-offs and the conditions under which the setting aside of a jury's verdict might be set also by the court[130] were provided for. A rule for the execution of civil judgments was established, tobacco and necessary clothing, bedding, utensils, and tools being exempted.[131] If a debtor could not pay and had lived at any time before in the quality of a servant, laborer, or artificer, he might be

[123] 1 Md. Arch., Ass., 148, 184.
[124] Changed to double in September.
[125] 1 Md. Arch., Ass., 149; not reënacted in September.
[126] 1 Md. Arch., Ass., 149, 184.
[127] 1 Md. Arch., Ass., 150, 185.
[128] 1 Md. Arch., Ass., 150, 185. In September the chief judge is given the power.
[129] 1 Md. Arch., Ass., 151, 186.
[130] 1 Md. Arch., Ass., 151, 187.
[131] 1 Md. Arch., Ass., 152, 187. In September tobacco and utensils are no longer exempt.

bound out to some corporal labor to work out his debt, but if he was not fit to be put to corporal labor the court might commit him to strict custody and the sheriff must keep him in the prison, when one should be built. A long list of minute provisions guided officers of the law in laying attachments and executions on tobacco and corn.[132] The testamentary law was stated, with careful provision for wills and intestate estates. If the judge in testamentary cases[133] was complained of, or was interested in any case, the judge of the Provincial court was to determine the controversy "according to the law or usage of the Province or former precedents." It is remarkable how little change has been made in the law respecting succession to property from that time to the present.

Assignments of contracts were regulated,[134] and then the lawmakers passed to the establishment of the first criminal code. Capital offenses included: (1) Treason according to the statute of Edward III, if the act was committed in Maryland; (2) wilful murder; (3) conspiring the death of or attempting violence against the Proprietary, or the Governor in his absence; (4) holding private intelligence with a declared enemy of the Province; (5) rising in arms or uniting against the Lord Proprietary. All these were to be punished by death, by forfeiture of property, and by corruption of blood.[135] "Less capital offenses," to be punished by death, by burning in the hand, by loss of member, by loss of lands for life and of goods, chattels, dignity, or office, by outlawry, by exile, by imprisonment or enforced service of the Lord Proprietary for a period not exceeding seven years (if the offender

[132] 1 Md. Arch., Ass., 137, 153, 195. By the earlier act no growing crop could be attached. This defect was corrected in September.

[133] 1 Md. Arch., Ass., 138, 154, 188. Touching testamentary causes; 1 Md. Arch., Ass., 138, 157, 190. Touching succession to land; 1 Md. Arch., Ass., 138, 156, 191. Touching succession to goods of intestate persons.

[134] 1 Md. Arch., Ass., 138, 157, 191.

[135] 1 Md. Arch., Ass., 138, 158, 192. Corruption of blood was omitted from the penalty in September.

were not a gentleman), by corporal correction, or by putting to shame, were homicide, piracy, robbery, burglary, sacrilege, sodomy, sorcery, rape, polygamy,[136] larceny, wilful burning of another's house or stack of tobacco or hay, or plucking out another's eye or tongue. A third class of offenses,[137] punishable by loss of the right hand, by burning in the hand, by other corporal shame or correction (not extending to life) or by fine, included striking any officer, witness or juror in presence of the court, or striking any other person with a drawn weapon in that presence, striking a magistrate or high sheriff[138] in or for doing his official duty, counterfeiting, falsifying or embezzling records, giving false witness or procuring another to do so. Drunkenness[139] was punished with a fine of one hundred pounds of tobacco, which fines should be used toward building a prison or for such other public use as the Proprietary chose, or, if the offender were a servant and could not pay, he must sit in the stocks fasting for twenty-four hours. Profane swearing was punished by a fine of five pounds of tobacco.[140]

Another act touching the taking up of land[141] was passed, probably chiefly "to regulate the priority of warrants" for surveying land, while still other laws continued the requirement that every tobacco planter[142] plant two acres of corn, prohibited the exportation of corn altogether from the middle of October until the middle of February, and allowed it at other times only with the Governor's license,[143] forbade engrossing and forestalling,[144] and decided in what way a debtor might make a lawful tender of tobacco.[145] The Assembly prohibited[146] any one from transporting from the Province any debtor, or person other-

[136] 1 Md. Arch., Ass., 138, 158, 192. Polygamy is omitted in September.
[137] 1 Md. Arch., Ass., 138, 158, 193.
[138] 1 Md. Arch., Ass., 138, 139. It was first proposed to have this read "officers."
[139] 1 Md. Arch., Ass., 159, 193. Seven burgesses wished the fine to go toward building a church; vide p. 139.
[140] 1 Md. Arch., Ass., 139, 159, 193.

wise obnoxious to justice, without a pass from the chief judge of the county, and strict regulations hedged about the granting of such passes. The sergeant of the train-band in every hundred was granted an allowance for "his art and pains in training" the militia.[147] Justices of the peace and commanders of the counties were to be appointed by the Governor from residents thereof, who are "freed from service." Yearly in March the county commissioners, who were the same as the justices of the peace, should nominate persons to be sheriff, from which nominations the chief judge might select a sheriff, but he might also select any one else not a Councilor.[148] Prior to this time the appointment had vested in the Governor and, as this act expired in the autumn, it never went into force.

The Indian Troubles of 1642.

Immediately after the adjournment of the July Assembly the court records begin again. On August 2, when James Neale sat as judge,[149] Lewger docketed ten suits for sums owed him and, about that time, had recorded a mortgage of a cow and steer and of two men's tobacco crops given him to secure payment of debts.[150] Two days later, when Lewger took the oath of judge before the Governor, Cornwallis docketed[151] eight suits and had two crop mortgages and a deed of sale of four cows recorded. One of Calvert's debtors confessed judgment and another was sued by him, and Mrs. Brent docketed five or six suits.[152]

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[141] 1 Md. Arch., Ass., 140, 159, 194. 2 Bozman, 228. Kilty, Land-Holder's Assistant, 248.

[143] 1 Md. Arch., Ass., 140, 160. Not reënacted.

[144] 1 Md. Arch., Ass., 141, 161. Not reënacted.

[145] 1 Md. Arch., Ass., 141, 161. Not reënacted.

[146] 1 Md. Arch., Ass., 141, 162. Not reënacted.

[147] 1 Md. Arch., Ass., 140, 160, 194. The regulations were lessened in September.

[148] 1 Md. Arch., Ass., 140, 159, 193.

[149] 1 Md. Arch., Ass., 136, 148. Not reënacted.

[150] 4 Md. Arch., Prov. Ct., 113–115. He came from Spain and settled on the Wicomico River near St. Mary's. Neill, Terra Mariae, 74.

[151] 4 Md. Arch., Prov. Ct., 116.

[152] 4 Md. Arch., Prov. Ct., 117–121.

[152] 4 Md. Arch., Prov. Ct., 118. I am uncertain as to the date of her suits against John Medley and Thomas Charinton.

On the fifth[153] Calvert sued a debtor, John Dandy entered eight suits, Cornwallis sixteen, and Lewger thirteen. Mrs. Mary Tranton or Troughton docketed two suits on the eighth, Cornwallis withdrew one of his and substituted another on the thirteenth,[154] on which day Lewger brought one suit. On the eighteenth Gerard instituted three suits[155] and Francis Posey one on the twenty-fourth. I have been thus minute because one is impressed by the large number of these suits, especially in the time of an Indian alarm, and by the fact that the greater part of them are brought by a very few persons and these for the most part the most prominent people in the Province.

The Indian alarm continued.[156] Cornwallis was directed on August 18 to "levy men and command them and use all power to the resistance and castigation of the enemies and vanquishing them," but, until actual danger, men might continue to tend their crops, repairing with women and children in case of an alarm to the forts and abiding there a month, unless sooner permitted to return home.[157] The Governor of Virginia was also appealed to for help, Col. Trafford being sent to him with a letter. Five of Virginia's citizens and eight of those of Maryland had been slain and their houses burnt and robbed, so both Governors should set forth "an expedition against the Indians, for the vindicating of the honor of our nation, and also to deter the like outrages for the future." Virginia was asked to furnish one hundred men to be present at the rendezvous of the forces at Kent Island on October 1, at which place Calvert planned to have as many more. Calvert would have attacked the Indians, who killed the Virginians, alone, had

[153] 4 Md. Arch., Prov. Ct., 121–124.
[154] 4 Md. Arch., Prov. Ct., 124.
[155] 4 Md. Arch., Prov. Ct., 125.
[156] 3 Md. Arch., Coun., 106.
[157] 3 Md. Arch., Coun., 107. St. Inigoes Fort, where the sheriff commanded with six men on guard day and night during the alarm; Thomas Sterman's house, St. Michael's hundred, where Lt. Thomas Baldridge commanded; Thomas Weston's house (St. George's hundred), where George Pye commanded; and Patuxent Fort, where Henry Bishop probably commanded, were the rendezvous.

he been able, as they were nearer him. Now also Marylanders had been killed, and the general safety required a joint expedition, like that forgotten previous one against the Nanticokes to punish them for the death of a citizen of Accomac.

In July the Virginia Assembly had stated among the "weighty consequences and benefits of its session" the treaties and overtures with the Governor and Province of Maryland, requiring time for maturing and very successful in the bay of Chesapeake, and the "settling of peace and friendship with the Indians."[158]

The Governor's New Commission.

In this difficult situation Calvert seized the arrival from his brother of a new commission[159] for him as Governor as an opportune time to reassemble the Legislature. This commission was sent undoubtedly to strengthen Calvert's position in the controversy with the Jesuits. He is not only to be Governor, but, because of his "faithful and laudable services," both "in the adventure of his person in the descent and settling of Maryland" and in "the ordering and advancing" of the Province, he is now to execute all the powers conferred on Baltimore by the charter as fully as if the latter himself were present. He is given a full power, which he did not have before, to assent to laws which shall then be in force, unless and until disassented to by the Proprietary. This seems to concede to the colonists the right of originating laws, and so differs from the commission of 1637 and follows the letter of August 21, 1638. The former commission authorized Calvert to "call, adjourn, and dissolve Assemblies." The power of prorogation is now expressly added. Power is also given Calvert to add to his Council such persons as Baltimore might appoint from time to time, and provision is made for the event of the Governor's death. With the Governor's commission came commissions

[158] Burk, Hist. of Va., v. 2, p. 64. 2 Bozman, 230.
[159] 3 Md. Arch., Coun., 108.

for a new Council,[160] to whose membership Col. Francis Trafford, William Blount, and John Langford, the surveyor, were added. A new commission for Lewger as Secretary was received. Both of these commissions were more minute than the former ones, and the judicial function of the Councilors was more accurately defined.[161]

The Assembly of September, 1642.

This new commission of Leonard Calvert as Governor,[162] which Baltimore signed on November 18, 1641, doubtless reached the Province in the summer of 1642, and though not promulgated until September 4, we can hardly doubt but that Calvert had received it when on August 22 he summoned all the "freemen inhabiting the Province" to come on September 5 in person to St. Mary's for an assembly or to send "delegates sufficiently authorized." The day after the reading of the new commission there assembled with Calvert, Cornwallis, Lewger and Langford of his Council and fourteen freemen. Two more freemen came in later.[163] It is interesting to notice that Cornwallis had only seven proxies and Lewger two, while Giles Brent held seventy-three proxies, all from men of Kent. Francis Posey held seven, and seven of the remaining fourteen freemen held from one to four, amounting in all to sixteen proxies. Seven more, including the other two Councilors,[164] were excused as being out of the country, eight were notified to appear and seventy-six were amerced twenty pounds of tobacco each for failure to come or send a proxy. This large number of proxies and absentees is perplexing, and it is important to note that this gathering was almost exactly the

[160] 3 Md. Arch., Coun., 114.
[161] 3 Md. Arch., Coun., 116, 136. These commissions were dated Nov. 18, 1641. 2 Bozman, 234.
[162] 3 Md. Arch., Ass., 114, 136. This summons was contrary to the law passed at the last session. Some damage was done to Francis Posey's house at St. Leonard's while he was away at the Assembly, and he asked St. Mary's County to reimburse him. 4 Md. Arch., Prov. Ct., 161, 162.
[163] Randolph Revell and Nathaniel Pope. 1 Md. Arch., Ass., 166.
[164] Trafford and Blount.

same in number as the last Assembly. When the roll had been called Thomas Weston, one of those present, pleaded[165] that he was no freeman, for he had no land in the Province, but the House voted that he need not be a freeholder to be a freeman, whereupon he remained in the Assembly. A new summons[166] was sent to the freemen of four of the hundreds of St. Mary's to appear, under penalty of fifty pounds of tobacco. Of the seven men returned as out of the Province, one appeared by proxy during the session, as did two of those suspended from amercement.[167] Of the seventy-six amerced, sixty sent proxies, as did seventeen more who are not mentioned in the first list. Some men changed their proxies, so that the list is confusing, but my figures show that twenty-three men were present during the session and that one hundred and seventy-seven persons appeared by proxy. After the roll of the House had been fixed on the first day, Lewger administered an oath of office to Calvert as Lieutenant General,[168] and rules of order were adopted similar to those of the last session.

The House then appointed a committee of seven to meet that afternoon and "draw up a bill touching a war to be made upon the Indians and other matters pertaining to the safety of the colony."[169] This shows that Calvert retired from his position of the last session. "Outrages" had been committed by the Susquehannocks and must be avenged. The committee reported on the same afternoon, showing that the bill had probably been already prepared, and when it was read Calvert demanded to be exempted from the levy, but the Assembly refused to grant this demand by a vote of 38 to 100.[170] The Governor then adjourned the House until the morrow, a power he consistently exercised at this

[165] 1 Md. Arch., Ass., 170.
[166] 1 Md. Arch., Ass., 171. No summons to Mattapanient.
[167] John Rutledge was excused from appearing, as he was a servant. 1 Md. Arch., Ass., 177.
[168] Full text of oath is in 1 Md. Arch., Ass., 170.
[169] 1 Md. Arch., Ass., 171, 174, 196. The Governor, the three Councilors present, and three burgesses served on the committee.
[170] 1 Md. Arch., Ass., 173. Brent with his seventy-three proxies from Kent must have been the determining factor in this vote.

session, though against the protest of some. Then the bill was amended, excepting the Lieutenant General and his apprentices from the levy, and, as amended, was passed.[171] It authorized the Governor to make the expedition when and as he wished, and to take out of every hundred every third man who could bear arms, who should be armed and provisioned for two months and transported to and from the expedition at the charge of the hundred. This charge was to be apportioned on all the inhabitants by the freemen of the hundred in a public meeting, and distress was ordered in case any one refused to contribute his share. Persons aggrieved at the assessment might appeal to the Governor and Council in St. Mary's and to the commander and commissioners in Kent, and any surplus stock after the end of the expedition was to be returned to the counties, by them to the hundreds, and by them to the particular persons. In like manner, the "perquisites and benefits, arising" from the "enemies prosecuted by this expedition," which were declared to belong to the Province, were to be distributed to the citizens.

After the bill for the Indian expedition had been presented, the committee, with a trifling change of membership, was continued and directed to draw up a bill "for the better safety of the colony."[172] This act authorized the Governor, "whenever the necessary defence of the Province or any part thereof against the assault or invasion of the Indians shall require it," to impress vessels, men, arms, ammunition, etc., "at the usual rates of the country," and to charge the

[171] 1 Md. Arch., Ass., 174, 176, 179, 180, 182. It is impossible to explain the vote. On engrossing, Brent voted nay, as did Cornwallis, Greene and four others for themselves and proxies, while Calvert, Lewger, Langford and four others voted yea. Yet the vote was reconsidered and the engrossing ordered unanimously. On final passage, apparently, of both this and the act for public safety the vote of those present was 7 to 6, but all except Cornwallis (for fifteen of his proxies of St. Michael's hundred, who objected to the exemption of the Governor's servants) finally passed it. I cannot understand why Calvert insisted on this exemption, unless on the score of his dignity.

[172] 1 Md. Arch., Ass., 174, 180 (seemingly some opposition to it), 182, 198.

sum upon the "inhabitants of the Province," as he, with the advice of the Council, shall think fit, provided that the charge of St. Mary's County be not more than four thousand pounds of tobacco a year, nor of Kent more than half that sum. If any pressed person receive "corporal harm in such service, whereby he shall be disabled to follow his labor or calling, he shall be cured and his wife and children," if need be, maintained, till he be able to go to work, at cost of Province or county, as the court[173] may assess. If any inhabitant be compelled by "public order" to forsake house or goods to assist others and his property be hurt therefrom, his loss shall be "repaired by a public contribution" of the whole county, as the court might assess it. This is the first pension system of Maryland.

We have noted the act requiring passes, recorded by the Assembly at its last session. It made much trouble in this one.[174] On the first day of the session Brent, on behalf of the Kentish men, asked the House to declare whether the inhabitants might freely, without leave, depart out of the Province unless they were indebted or otherwise obnoxious to justice. Calvert quickly answered: "I do not consent that it should be decided by or in this house," and adjourned the session. On the next morning Brent brought up the question again, but Calvert refused to put the question to the freemen as judges. Bozman is doubtless correct in regarding the Governor's act as an attempt to maintain his brother's legal prerogatives, on the analogy of the position of the Crown officers that no one could lawfully leave England without the permission of the King. Lewger now rose[175] and said that, as a Councilor, he thought the matter was proper to be decided by the House, both by former usage, because the writ for the session called them to consult, and because the former act for passes, sent over by Baltimore, had been enacted by the House in June. Calvert, after a little more de-

[173] Qy. Provincial court?

[174] 1 Md. Arch., Ass., 171, 173. 2 Bozman, 240. Were the Kentishmen restive at the law of June?

[175] 1 Md. Arch., Ass., 174.

bate, declared that "it is the common right of all inhabitants to depart out of the Province at their pleasure, unless indebted or obnoxious to justice, or unless there be some transcendent cause for the safety of the people, for the Lord Proprietary, or his substitute to overrule that right in some particular cases for a convenient time." On the last day of the session some of the members of the House protested against this statement, and Calvert yielded the point entirely and made "no exception of any transcendent cause."[176] Thus was another of the Proprietary's claims to especial privileges whittled away by the opposition of the colonists.

The laws made in June were declared to be in force until the close of the next session, yet, instead of discussing which should be reënacted, the Assembly, on September 6, moved to "repeal" certain[177] of them. It is quite possible that most of these laws had been drafted by Baltimore's advisers in England and that, after mature consideration, the settlers were not willing to continue what they had been quite willing to test. Calvert said he was willing to repeal several of them, such as those for judges and executions. When the reading of them began, however, and an amendment to the act for the support of government was favored by the House, the Governor refused to alter it, and then he "appointed a bill to be drawn for the repeal of all the laws made last Assembly." That afternoon, however, the House appointed Calvert, the three Councilors and four burgesses to be a committee to consider bills to be propounded to the House on next Monday, to which date the Assembly adjourned.[178] The committee met on Wednesday, September 7, and revised several bills. Cornwallis and Brent, heading here as always during this session the popular party, opposed the

[176] 1 Md. Arch., Ass., 180. Was this the anonymous protest Brent tried to present but the House refused to receive on the preceding day? 1 Md. Arch., Ass., 179.

[177] 1 Md. Arch., Ass., 174.

[178] 1 Md. Arch., Ass., 175, 176.

[179] 2 Bozman, 245, calls our attention to the fact that, as the act failed, on Sept. 15, 1642, Calvert appointed a sheriff by his prerogative.

bill for officers, as it forced any citizen selected as sheriff, "against common right and decency," to be a hangman, and did not limit the amount of the sheriff's recognizances, nor the number of offices any one man might be forced to hold.[179] Calvert was willing to except the hangman's office and to limit recognizances to such sum as the business entrusted to a sheriff might amount to,[180] but the committee refused to report the bill.[181] Brent and Cornwallis, however, were unsuccessful in their struggle to defeat the act for capital offenses. The committee does not seem to have met on Friday or Saturday, but on Sunday they agreed on twenty-five bills, including the military ones already discussed.[182] They also agreed not to report the acts for the order of hearing causes for executing upon corn or tobacco, and for what shall be judged a lawful tender, and made no recommendation as to the bills for the planting and exportation of corn and against forestallers. On Monday, September 12, the bills reported by the committee were read and slightly amended. The Governor, with Lewger and Langford and three burgesses, counting proxies twenty-six "voices," voted that these laws should "endure till the first meeting of the next Assembly."[183] Six burgesses, casting forty-six votes, voted to amend this by stating that laws should expire at the end of three years, if no Assembly had been sooner called, while Cornwallis and Brent voted for the period of three years without any alternative. During the noon recess the last two men must have done some brisk campaigning, for when the House came together in the afternoon they had with them all but one of the five burgesses previously holding the middle position and one who voted with Calvert in the morning. Calvert and his other followers of the morning now took the middle position, with one burgess who voted for this provision on both occasions.

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[179] 1 Md. Arch., Ass., 175.

[181] It was brought up before the Assembly on Monday; Calvert, Lewger, Langford and four burgesses with proxies voted for it, Cornwallis, Brent and three burgesses with proxies were against it and it was lost.

On Tuesday Calvert refused to sign several of the bills proposed by the committee,[184] but finally did so and all became laws, while none of those passed which were not recommended by the committee.[185] Calvert then dissolved this Seventh General Assembly,[186] whose acts expired on September 13, 1645.

Expedition Against the Susquehannocks.

On September 13, the day the Assembly adjourned, Calvert proclaimed the Susquehannocks, Wicomeses (possibly an Iroquois tribe) and Nanticokes as enemies of this Province,[187] and shortly after Edward Parker was appointed high sheriff of St. Mary's County, and was sworn to "serve the Lord Proprietary and do the Lord's profit," as well as to "truly and rightfully treat the people of your sheriffwick and do right, as well to poor as to rich."[188] On September 21 the expedition against the Indians was begun,[189] and it was concluded on October 13. The sheriff of St. Mary's pressed twenty men, but we have record of only fourteen

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[183] 1 Md. Arch., Ass., 176.
[184] 1 Md. Arch., Ass., 177, 179.
[185] 1 Md. Arch., Ass., 180, 181.
[186] Calvert, Lewger, Langford and five burgesses and their proxies wished the act against engrossers reënacted. Cornwallis, Brent, and three burgesses with proxies opposed it and it failed.
[186] John Hallows was allowed one thousand pounds of tobacco and Henry Hooper, the drummer, one hundred pounds for their services, the sums to be assessed two-thirds on St. Mary's and one-third on Kent. The sheriff who collected them was allowed ten per cent. commission. 1 Md. Arch., Ass., 180, Nov. 25. Assessment was made on seventy-eight taxpayers in St. Mary's, of whom three were women and ten were gentlemen, and on sixty-two taxpayers of Kent, of whom four were gentlemen. The Kent assessment was renewed in December, when seventy-one taxpayers were returned. 3 Md. Arch., Coun., 120, 123, 125.
[187] 2 Bozman, 214. 3 Md. Arch., Coun., 116. Chalmers, Introduction to the Hist. of the Revolt of the Am. Col., 76, calls this a "savage Indian war."
[188] 3 Md. Arch., Coun., 117. No reference to England in the oath. The jura regalia were carefully preserved for the Proprietary.
[189] 4 Md. Arch., Prov. Ct., 156, 157. 3 Md. Arch., Coun., 117, 119, 121, 125, 137. Two lists of St. Mary's taxpayers are given, containing sixty-seven and fifty-five names. Assessment made in December. Execution against John Hollis for his tax in March. 4 Md. Arch., Prov. Ct., 190.

privates who went with Sergeant McFenin and Surgeon Alexander Pulton. Cornwallis provided some powder and shot and Lewger victualled the expedition, providing salt, pease, corn and an ox, which was killed at Kent Island, where the men stayed two days and whence they seem to have returned without pushing on farther. The total cost of the expedition was covered by an assessment of six thousand pounds of tobacco, two-thirds of which were levied on St. Mary's. Brainthwait was captain of the forces. Cornwallis had refused for some reason to take the oath of a Councilor or to be in the commission, and therefore probably was not made the leader.[190] Shortly after the expedition returned Gerard and Neale were authorized,[191] on October 29, to demand satisfaction from any Indians they might find killing their cattle, stealing or injuring their corn, or otherwise trespassing on their lands, and, in default of satisfaction, to "pillage them of what you may within your said lands," use force to chastize them and put them off the lands. If the Indians offer violence to the English in the execution of these powers, the latter may use further violence, and may even kill the Indians.

Brent's Difficulties with the Governor.

Out of this Indian expedition and the September session of the Assembly arose considerable difficulty between Brent and the Governor. On October 10, before the march was over, Calvert heard "of demeanors" of Brent on Kent Island[192] which made him suspect "some intents and desires of his to disaffect that island and withdraw it into sedition,"

[190] 4 Md. Arch., Prov. Ct., 125.
[191] 3 Md. Arch., Coun., 118.
[192] 4 Md. Arch., Prov. Ct., 126. On the Brent family important information is contained in 14 Va. Mag., 100 (July, 1906). From this it seems that Margaret (born 1601, d. after 1661), Mary (d. circa 1657), Fulke (m. Cecilia ——, and d. 1656 s. p.), and Giles (m. Margaret and d. 1671), all came to America about 1638. See also 1 Md. Hist. Mag. (1906), 189 and 136, in which it is stated that Giles, with his wife and family, resided on Kent Island, but also resided for a part of the year in his sister Margaret's house in St. Mary's.

and therefore required him to give bond to answer these charges at the next court and to be "of good behavior" in the mean time. Brent considered the matter and then refused to enter the recognizances Calvert required of him, whereupon the latter commanded him not to depart out of St. Mary's hundred until the next court. On the seventeenth Lewger, as attorney for the Lord Proprietary,[193] entered an information before the court that Brent had first propounded the expedition against the Susquehannocks to Calvert, had consulted with him about it and had been given a commission to raise men at Kent at the country's charge, and had them out upon the service. After Brent arrived at Kent Island, however, he heard of a commission granted Brainthwait as commander of the island[194] and, "taking disgust thereat or for some other secret discontent," did not use his commission according to its full power, but, trying to make it ineffectual and yet not daring to disobey it, he left it to the consideration of the Kentish men whether they were willing to be pressed or not, for they should not be urged against their wills. When they refused "that so gentle a proposition," Brent dismissed them without pressing any man, "pretending some illegalities found in the commission."[195] Later he "swallowed" these illegalities and issued a warrant for pressing twenty men. They came with arms ready to be employed,[196] but when they "uttered some expressions of unwillingness he dismissed them again of his own head without authority," thus letting the "whole enterprise and charge fall to the ground," to the disgrace of our nation among the Indians, to the encouragement of the people to despise the like commission at another time, to the imminent

[193] 4 Md. Arch., Prov. Ct., 128, 135. On Nov. 2 Lewger brought a civil suit in the Proprietary's name against Brent for his conduct on Kent, claiming 5622 pounds of tobacco as damages. 4 Md. Arch., Prov. Ct., 136.

[194] The proof that such commission was issued is found in 4 Md. Arch., Prov. Ct., 131.

[195] I do not find this commission extant.

[196] The soldiers from St. Mary's received each three weeks' pay. 3 Md. Arch., Coun., 122.

danger of the colony and to the damaging of Baltimore and the planters by a fruitless expense and inconvenience. On receipt of these serious charges, laying the whole fault for the failure of the expedition upon Brent, Calvert authorized Robert Vaughan, "lieutenant of our isle and county of Kent," with the other two commissioners,[197] to take testimony in this matter. Brent sent over interrogatories designed to show that the Kent Islanders told him that if the voyage was made they must leave the island, which would be dispeopled; that, if ammunition were taken for the expedition, many houses would be left wholly desolate, that crops unhoused would be lost and that the enemy would follow them back to Kent, destroying their tobacco, hogs and cattle, and killing men in the woods. Brainthwait, addressed as commander of Kent, was directed to collect evidence for the prosecution. On the twenty-first Calvert directed[198] Brainthwait and Vaughan to inquire whether Brent, while he was commander and "chief judge in civil causes," refused to do justice to any plaintiff who demanded judgment until he examined his account book, and if when he found the defendant owed him money he granted no execution until the defendant had made over his crop to him for security. This scandal must be investigated at once and its truth or falsity made known.

Brent took some counter-steps. On October 10 he conveyed[199] all his property to his sister Margaret, and he had Speak, one of the St. Mary's soldiers in the late expedition, depose before Lewger that on October 9, as Speak was coming with the other soldiers to Popley's Island, he saw mutton[200] boiled and afterwards eaten by the others, which mut-

[197] 4 Md. Arch., Prov. Ct., 129. Any two may sit, but Ludington must be present. Brent's interrogatives were to be asked of twenty-one men.

[198] 4 Md. Arch., Prov. Ct., 133.

[199] 4 M. Arch., Prov. Ct., 132, 134.

[200] Brent sued five of the soldiers for killing his sheep and seems to have recovered damages from two of them. 4 Md. Arch., Prov. Ct., 164, 165, 201. It is interesting to note that Lewger has just accused Phillpot (a Kentishman) of killing and using one of Baltimore's oxen. 4 Md. Arch., Prov. Ct., 132.

ton Brent suspected to have come from a ewe sheep feloniously killed by Brainthwait's soldiers. On November 2 Brent answered that he delayed at Kent for good reasons and for further orders,[201] and pleaded not guilty to the charges laid against him. Lewger obtained a judgment against Brent by default, and asked that this answer be taken off the record as containing matters of "scandalous and contemptuous" implications to his Lordship and his authority.[202] Brent now came to the court in answer to a warrant, and handed in a written statement that he intended to inquire of learned English counsel whether the judgment against him was rightful, and if they said it was not, "I intend to seek my right at the hands of our sovereign the King." He asked to have this statement recorded. Here was material for consternation, but the court was unmoved. It took Brent's answer off the record, but kept it on file and ordered judgment to be entered. Before this was done Calvert told Brent that if he would yet tender the general issue and "go to trial before the country" the court would not enter judgment. Brent took four days to consider the matter and then agreed to plead to the general issue, which he did on November 14, and the proceedings, after the filing of the complaint, were annulled. A week later a subpœna was issued,[203] directing Brent not to leave St. Mary's until a day was fixed for the trial. Brent now filed a second answer that the bill drawn up against him was so uncertain that he could not tell whether he was tried for a civil or a criminal offense.[204] He denied that he had acted wrongly, of whichever nature the charge might be. Lewger now filed a declaration in a civil suit charging six thousand pounds of tobacco as damages,[205] which declaration Brent answered and, issue being joined, a panel of twenty-four jurymen was summoned. On December 1 the case was tried, Calvert, Lewger, Blount and

[201] 4 Md. Arch., Prov. Ct., 136.
[202] 4 Md. Arch., Prov. Ct., 140. Calvert and Langford sitting.
[203] 4 Md. Arch., Prov. Ct., 150.
[204] 4 Md. Arch., Prov. Ct., 151.
[205] 4 Md. Arch., Prov. Ct., 151, 152.

Langford all sitting on the bench.[206] There was a curious mixture of judge and party, Lewger being the prosecutor and Calvert being sworn as a witness. The jury found for Brent, and four days later Lewger moved for a new trial, as the issue was understood in one sense by the plaintiff and in another by the defendant. On December 2 Lewger filed a criminal suit against Brent charging him with a misdemeanor; Brent pleaded not guilty, but the form of his plea was not satisfactory to the court and he was ordered to amend it.[207] This he did on the twelfth, claiming that his management of the expedition was guided by the best of his discretion for the honor and benefit both of his Lordship and of the colony.[208] The court accepted his excuses and found him innocent and also dismissed the civil case. After this vindication we find that Brent was fully taken back into favor and was appointed on December 16 commander of the "isle and county of Kent,"[209] with all the powers of a "chief captain" in all matters of warfare, and of a judge in matters not extending to life, member or freehold. With him William Ludington, Richard Thompson, and Robert Vaughan were associated as commissioners. Brainthwait may have left the island, as he is not taxed this month, and this was probably the cause for the new commission. A month later Vaughan and Thompson were empowered to hold one county court to last two days, as Brent was absent.[210]

Missionary Labor in 1641–1642.

The Tayac died in 1641,[211] but the good work of the

[206] 4 Md. Arch., Prov. Ct., 155. It was unusual to have so many Councilors sitting; business was frequently transacted when but two were present. Brent was amerced for absence. Brent objected to one of the jurors, but his objection was overruled.

[207] 4 Md. Arch., Prov. Ct., 160, 161.

[208] 4 Md. Arch., Prov. Ct., 164.

[209] 3 Md. Arch., Coun., 124.

[210] 3 Md. Arch., Coun., 127.

[211] The Tayac, sometimes known as Kittamaquund, held his power through his murder of his brother Wannas, or Uwanno, and left the chieftaincy to this daughter. The Indians rejected her and chose another. She married one Fitzherbert, an Englishman, and he, failing in his expectations of a great portion, civilly parted from her. Browne, Geo. and Cecilius Calvert, 125.

Jesuits among the Indians continued. About this time the Tayac's daughter, the "young empress" or queen of Port Tobacco, was baptized at St. Mary's and, at her town, the Tayac's wife and two sons and one hundred and thirty others were converted. The convenience of Port Tobacco's situation and the fact that Piscataway was near the hostile and warlike Susquehannocks induced the priests to remove their station to the former place. They did not confine their work, however, to one center, but a father, an interpreter, and a servant sailed or rowed, in pinnace or galley, up and down the Patuxent and Potomac rivers, preaching to the natives. Miraculous deeds of healing are reported to have followed their prayers. Father Roger Rigby, in spite of three months' illness, acquired such knowledge of the language of the dwellers by the Patuxent that, with an interpreter's aid, he was able to compose a short catechism in that language.[212]

The Tayac's daughter, "the young empress," was still being educated at St. Mary's, having become proficient in the English language. The priests tell of a miraculous cure of a wounded Indian by application of holy relics to the wound. Father White still preached at Piscataway and converted most of the Indians of that village in 1642. An interesting story is told of how he embarked with a hard-hearted and troublesome captain of New England, "a region full of all Calvinist heresy," early in the year, that he might go to Piscataway from St. Mary's. He feared that the captain would carry him to sea or to New England, but, near the mouth of the Potomac, the ship stuck fast in the ice and could not be moved for seventeen days. Father White walked ashore on the ice and reached his destination, but the floes jammed and sank the ship when the ice was broken up. Father Philip Fisher, the superior and also the only other priest in the mission, re-

[212] The legend is that the Jesuits had a printing-press at St. Inigoes and printed this catechism, of which Father McSherry saw a copy at Rome about 1840. 1 Scharf, 190.

mained for most of the time at St. Mary's, to take care of the English and Indians who resorted thither. During the year two other priests came from England after an unpleasant voyage of fourteen weeks, though it did not usually take more than six or eight weeks. After 1642 only broken records of the priests' labors remain.

The Jesuits' Struggle with the Proprietary.

The letter of 1642, from which we have already quoted, makes reference to the difficulty between the Proprietary and the Jesuits. The Jesuits say that those from whom they had the right to expect aid and protection, too intent on their affairs, violated the immunities of the Church by using their endeavors to have laws passed in Maryland like those in England which declared it unlawful for any ecclesiastical community to acquire or possess land, unless the consent of the civil magistrate be first obtained.[213] They add that Baltimore had two priests sent from England to teach the contrary, but that these, when they heard the Jesuits' reasons, fell in with their opinion, and that the laity seemed to be of like mind. The coming of the new Jesuits—those of the hill, as Baltimore called them[214]—was strictly against his orders. The representatives of the order in England in vain importuned the Proprietary to allow them to send out men, and his steadfast refusal to do so caused him to have a "bitter falling out" with his "sister Peasley," and "some discontentment" arose between him and her husband. When one of the Jesuits secretly got

[213] Dennis calls attention to their dislike of the manorial system, which Baltimore tried to fix upon the Province, and to the fact that the members of the Society of Jesus brought into the Colony sixty persons in the first five years of its history.

[214] 28 Md. Hist. Soc., Fund Pubs., 210–221, long letter from Baltimore to Leonard Calvert dated Nov. 21 and 23, 1642. Dennis, in his valuable review of Lord Baltimore's Struggle with the Jesuits, 1 Am. Hist. Ass., Rept., 1900, p. 112 and ff., thinks the restraint of the acquirement of land by Jesuits, the toleration act of 1649 and the encouragement of the settlement of Protestants in the Province were all part of Baltimore's scheme for curbing the power of the ecclesiastics. Streeter, Md., Two Hundred Years Ago, p. 32, states that the author saw Mrs. Peaseley's letters.

on board of Capt. Ingle's ship in the Downs bound for Maryland late in November, 1642, Baltimore in hot anger wrote his brother Leonard of the occurrence "as a high affront unto me." If "the man" who goes to the Province in contempt of Baltimore's prohibition should get away from Calvert before he can lay hold of him, by being sent back to the Indian settlements or elsewhere, still the affront to the Proprietary will remain and "the danger of prejudice be the same." If the new priest escape, Leonard Calvert is ordered to seize Mr. Copley, the temporal coadjutor of the order, and send him to England by the next shipping, unless "he will bring the other newcomer into your power to send back again." Baltimore's letter is incoherent in its rage, and it is interesting to see how moved was the man who was usually so calm. He has learned accidentally from a Jesuit[215] in England that the Tayac had given a great deal of land at Piscataway, shortly before his death, to Father White, and prays the Governor to hasten the design concerning which he has already written, "of bringing all the Indians of that Province to surrender their interest and right to me." By the action of Father White might be seen "of what dangerous consequence" the Jesuits' proceedings are to the Proprietary. With characteristic shrewdness Baltimore adds, "Methinks the Indians who are christened, if their conversion be real, might be brought to assist in their labors and contributions of beaver, peak, etc., for the building of the new chapel" at St. Mary's.[216]

Earlier in 1642 the Rev. Mr. Gilmett had come out in Capt. Ingle's ship, as one of the priests sent by Baltimore

[215] The observance of care to avoid any reference to the ecclesiastical character of the priests or to the word Jesuit in Lord Baltimore's letter shows how he dreaded that it might fall into hostile hands, which might use it against him with the English government.

[216] Baltimore thanks Leonard Calvert for his kindness to John Langford and Robert Evelin, both of whom have written Baltimore with reference to Calvert's conduct. Baltimore also sends kind respects to Mrs. Troughton and thanks her for a letter she sent answering one of his. See Kilty.

and referred to in the Jesuits' report. Baltimore had recommended him to his brother and desired that Gilmett should sojourn with him, and that his boy, whom he needed as an attendant, be also provided for, and that necessaries of bedding, etc., be provided them. In the end of November the vessel which bore the Proprietor's letter, from which we gain our information, carried the second of these priests, the Rev. William Territt. He is also commended to Leonard Calvert's care, and assurance is given that both of the priests are "men of high esteem here and worthy to be cherished and valued by you." Territt is to be properly accommodated, Baltimore promising to pay the charges of both priests unless Leonard Calvert can otherwise provide for them. Territt is commissioned to acquaint Calvert more particularly with his brother's mind with relation to the Jesuits, and "with the opinion and sense which divers pious and learned men here have to this odious and impious injury offered unto me." Territt has been told what should be done to vindicate Baltimore's honor and "prevent a growing mischief upon" him. The Proprietary thinks his brother has been too complaisant to the Jesuits and writes: "If you do not that right unto me, as I require from you in my instructions,[217] . . . I shall have just cause to think that I have put my honor there in trust to ill hands, who betray me to all the infamous contempts that may be laid upon me." The Jesuit partisans in England have maligned Leonard Calvert, so that he has no reason to love them very much, while Baltimore has good reason to believe that "they do design my destruction" and will try to arm the Indians and overthrow the government with their aid, if the English will not join their party. "Laymen would be the basest slaves and most wretched creatures upon the earth," Baltimore wrote in his fierce indignation, if all things that clergymen do under the "mask and vizard" of "God's honor and the propagation of the Christian faith" should "be accounted just and to proceed from

[217] Those of Oct. 20.

God." "If the greatest saint upon earth," he continued, "should intrude himself into my house against my will . . . with intention to save the souls of all my family, but withal gave me just cause to suspect that he likewise designs my temporal destruction, . . . although with all he do perhaps many spiritual goods, yet certainly I may and ought to preserve myself by the expulsion of such an enemy and by providing others to perform the spiritual good he did, who shall not have any intention of mischief towards me." Do not the Italian princes engage in warfare with the Pope himself and yet continue to be Roman Catholics? This argument was undoubtedly written to Leonard Calvert, because Baltimore is not sure of his loyalty in the matters, and he adds that "if you do not, with a constant resolution and faithful affection to me," execute my orders, written and verbal, you will "betray me to the greatest dishonor and prejudice that ever one brother did another." Calvert must also see that neither Gilmett nor Territt receive any prejudice, by "committing my mind to you or by their zealous affection and fidelity to me." Baltimore further rebukes his brother for passing grants "to those of the Hill, of St. Inigoes and other lands at St. Mary's" and Piscataway, because he conceived the lands were in justice due unto them, though contrary to Baltimore's directions. "It was a great breach of trust" in Calvert to make these grants contrary to his brother's orders. If the Jesuits had "just cause of complaint by having grants refused them," Calvert should have referred them unto his brother, "for you are merely instrumental in those things to do what I direct and not to direct me to do what you think fitting." For the future Calvert is earnestly desired to be more observant of his brother's directions, and not to expect to learn the reasons of all directions. The letter ends with this prohibition: "I do once more strictly require you not to suffer any grant of any lands for the future to pass my seal here to any member of the Hill there, nor to any other person in trust for them upon any pretence or claim whatsoever, without especial warrant un-

der my hand and seal." In the same letter Baltimore complains that Calvert gave "kind entertainment in 1641, to certain Dutch" who are planted in Delaware Bay within his Province and who came to St. Mary's last year.[218] He also states that he hears that the Indians kill the planters' hogs and the government "connives at" the Indians upon pretence of their being made Christians, so that the planters can have no remedy nor "are permitted to right themselves." If this be true it should be redressed.

Business is never wholly lost sight[218a] of by Cecil, Lord Baltimore, and he asks what has become of the proposition of setting up an iron work, directs that full account be given him of the cattle belonging to him, gives Robert Evelin and Calvert the profit of an adventure which Lady Baltimore made in Virginia last year, complains of the failure of Mr. Kemp in Virginia to deliver certain sheep, and urges that Leonard collect the Indians' tribute, investigate the red earth and get all the freight he can for the vessel which bears the letter, that the "master may be encouraged to adventure thither again."

With reference to the Virginia colony Baltimore writes that their agent in England, Sir John Berkeley, is not a "good solicitor," and suggests that he might help them to obtain their desires "if they would deserve it of me," but they have so "disobliged" him this year that he has little reason to trouble himself in their behalf. Baltimore claims to have deserved better treatment, as his efforts had prevented the Virginians from being "reduced under that com-

[218] 1 Scharf, 230. Delaware Bay, discovered by Hudson in 1609, was named by Argall in 1610, and Capt. May in 1614 explored it and named the cape on its eastern point. In 1621 Capt. Hendrickson explored Delaware for the Dutch West India Company and called it South River. In 1629 Godyn and Blommaert had a grant on the west side of the bay. In 1631 Capt. Heyes founded Swaanendael on Lewes Creek, but the savages destroyed it in the next year. In 1638 the Swedes came to Jamestown and later settled on Christiana Creek, and in 1641 the New Haven men made an unsuccessful settlement near Salem, N. J. The Dutch expelled them in 1642.

[218a] He complains to Calvert that "you do usually omit to give me satisfaction in divers things, wherein you do not well and I have told you often of."

pany" which "they so much abhor." He will use his efforts further for Virginia only in case that colony's Assembly make a declaration importing a "settlement of friendship between me and that colony," an "allowance and approbation" of Baltimore's patent, a "disclaimer of all petitions" against Baltimore sent to England in their name, a condemnation of Claiborne's proceedings against Baltimore, a grant to Baltimore and his Province of fur trade with Virginia, and of leave to transport any goods bought there into Maryland, and a promise to "make a league offensive and defensive" with the Proprietary.

End of the Struggle with the Jesuits.

Father More, the English superior of the Jesuits, forwarded[219] the queries to Rome and wrote a long letter describing the difficulty to the Congregation for the Propagation of the Faith, telling of the work of the Jesuits in Maryland and asking, if possible, that they be permitted to remain and not be superseded by the secular clergy. This letter seems to have been effective. Father More was of a conciliatory disposition,[220] and gave Baltimore a certificate that his Conditions of Plantation would not cause him or any of his officers to be subject to excommunication or to be guilty of mortal sin. More also executed a release of Mattapany[221] and other lands acquired and of the right to acquire them from the Indians. Baltimore also prepared a paper to be signed by the Jesuits not only giving up any right to receive lands from the Indians, but also admitting that all ecclesiastics are bound by the laws of the Province, that ecclesiastics have no more rights in Maryland than are granted in England to such persons, that Baltimore's officials may institute judicial process against ecclesiastical persons and their property without incurring any sin, and that testa-

[219] Johnson, p. 78.
[220] Johnson, p. 83.
[221] Johnson, p. 84. Mattapany was given by the chief of Patuxent and divided into the manors of the Immaculate Conception and of St. Gregory.

mentary and matrimonial causes may be heard by Baltimore's appointees without their committing sin until an ecclesiastical tribunal be constituted with the Proprietary's consent.[222] To these terms the Jesuits yielded, peace was made and the secular priests were recalled. Three interesting survivals of the struggle between Baltimore and the Jesuits are found in the laws of the state to-day: no ecclesiastic may sit in the General Assembly; no gift, sale, or devise of land, nor gift, nor sale of goods or chattels to take effect after the death of donor or seller can be effective without ratification by the Assembly; and Maryland is the only state of the Union which requires a religious ceremony for the completion of a marriage.

[222] A form of agreement between the Proprietary and the Jesuits is printed in Johnson, p. 90, but he thinks it was not signed. It agrees with the provisions above cited, and adds that corporal punishment shall not be inflicted on a Jesuit in Maryland unless the offense be a capital one, that no Jesuit be sent to Maryland without Baltimore's prior license, and that, if Baltimore wish any Jesuit removed from the Province, such removal must be made at the Proprietary's expense within a year.

INDEX

Abolition in North Carolina, 500–503.

Adams, John, on Armed Neutrality, 258–259; advice to Dana as minister, 262; commissioner of arbitration, 263, 277–278; on attitude of France toward U. S., 266; on money for Russian ministers, 269; on attitude of France and England toward U. S., 277–278; on foreign relations of U. S., 279; nominates Rufus King minister to Russia, 280; wants peace with France, 283.

Adams, John Quincy, minister to Russia, 290–292; instructions, 292; reception, 293; and northwest coast of America, 298–300, 408, 410, 438; on Russian friendship for America, 302; on Russian-American commercial treaty, 302–304, 403–404; on Russian mediation in War of 1812, 308, 310; on England and France, 308–309; minister extraordinary to England and Russia, 314–315; instructions, 316; enters on mission, 318; on token of esteem from Russia, 322, 324; on England's refusal to arbitrate in War of 1812, 324; negotiations, 323–333; received by Russia, 326; transferred from Russia to England, 339; secretary of state, 361; instructions to Campbell, 368–371; on Florida treaty, 376; policy of conciliation, 376–377; instructions to minister, 395–396, 417–418.

Administration, financial, of American trade unions, 219, 248.

Agreements, trade, in trades councils, 702; in industrial unions, 735.

Alaska boundary, 285–286, 295–300, 361–362, 370–371, 373–374, 383, 405–420, 426–438.

Alexander I., friendship for U. S., 284, 286, 293, 300–302, 310, 336, 389; offers mediation in War of 1812, 307–308, 312, 321, 336; withdraws offer, 317, 320, 329, 338; and Romanzoff, 321, 329–330; urges general peace, 334; on consular immunity, 344, 346–347, 354, 363–364; on Russian-American commercial treaty, 360, 370; on Spanish-America, 367–370, 386, 388–390, 421; sells ships to Spain, 370; on U. S. and Holy Alliance, 380; mediator in slave case, 398, 400–402; trade ukase, 407; Spanish revolution, 420; on private war at sea, 440.

Aliens, protection of in Cuba, 30–31, 37, 55–59, 71–73, 84.

American party in North Carolina, 538–540, 548, 551.

"American Recorder," the (N. C.), quoted, 484.

Annapolis Trade Convention, North Carolina delegates to, 460–461.

Anti-federalists in North Carolina, *see* North Carolina.

Appeal, sympathetic, in American trade unions, 138–140.

Arbitration, in labor federations, 661 (note); in trades councils, 706–707.

Armed Neutrality, 258–259, 269, 274, 276–277.

Arntz, E.-R., quoted, 39.

Assemblies of Maryland (1639–42), 759–764, 766–767, 773–776, 778–786, 789–795.

Assembly, national trade, of Knights of Labor, 636–638.
"Assumption" in North Carolina, 476–478.
Atooi Island, 374.
Auditing in American trade unions, 233–234, 242 (and note).
Autonomy, Cuban, 62–63, 66–68, 84, 86–88, 94; trade, 621, 694.

Badger, Geo. E., 516, 518, 520, 522–523, 525–527, 533 (note), 534, 541, 561, 566, 578, 581, 592, 594–596.
Bagot, Sir Charles, 397, 399, 418–420, 424.
Bakers' and Confectioners' International Union, Journeymen, 246.
Baltimore, Lord, *see* Calvert, Cecilius.
Barbers' International Union of America, Journeymen, 182, 183 (note), 215, 225, 244–246.
Barker, W. B., quoted, 64.
Battle, Kemp P., 594 (note), 596.
Bayard, James, as minister to Russia, 314–319, 323, 326, 330, 339.
Bell, John, 559–562.
Belligerency, recognition of, 10–15, 367, 372–373, 377–378, 384–385, 420–421.
Benefits in American trade unions, 167–196; early features, 167–168; death or disability, 168–177, 191, 193, 246–248; sickness, 177–183; out-of-work and travelling loans, 183–191; amounts expended, 191–194; difficulties, 194–196; among railway employees, 723–724.
Benjamin, Judah P., 595 (note).
"Bermuda," the, filibuster, 22.
Biggs, Asa, 535 (note).
Bill of rights of North Carolina, 455–456.
Blacksmiths' and Machinists' International Union, 228.
Blacksmiths, International Brotherhood of, 168, 211.
Blanco, Gen., 61, 63–64, 79, 85, 89, 93.
Bledsoe, Moses A., 555 (note), 595.
Blockade, 360.
Bloodworth, Timothy, 465, 467.
Blount, Wm., 461, 464 (note).
Bluntschli, J. K., quoted, 34, 39.
Boiler Makers and Iron Shipbuilders of America, Brotherhood of, 215, 218 (note), 238–239, 244 (and note), 685, 704.
Bonaparte, Napoleon, alliance with Russia, 293; orders proscription, 294–295; closes Russian ports, 300–301; Russian campaign, 306, 312; makes advances to Russia, 321.
Bonding in American trade unions, 232–233, 244–245.
Bonfils, H., quoted, 34.
Bookbinders, International Brotherhood of, 215, 708 (note).
Boot and Shoe Workers' Union, 116–118, 122–123, 145, 162, 177, 182, 193, 109 (note), 202–205, 213, 217, 225, 231 (note), 232, 233 (note), 235–236, 242, 246, 717 (note), 738–739, 746.
Boycott, in Knights of Labor, 661–662, 745; in Am. Federation of Labor, 662–663, 745; in Am. Labor Union, 662; in trades councils, 713–714; in industrial unions, 745–746.
Bragg, Thomas, 535, 537, 539, 547, 583, 594–595.
Brainthwait, Wm., 753, 760, 796, 800.
Breckenridge, John C., 559–562, 571–572.
Brent, Giles, 752, 760, 773, 777, 796–800.
Brewers' Association, Master, 719.
Brewery Workmen of the United States, National Union of the United, finances of, 114 (note), 224, 225 (note), 227, 232, 246; effect of machinery in, 611; jurisdictional disputes, 650–651, 750; history, 718–720; structure, 727–733; unit of organization 727;

conventions, 727–728; executive board, 728–729; strikes, 730–731, 741; officers, 731–733; functions, 736–750; trade agreements, 736–737; boycott, 745; political activities, 747.
Bribery in diplomatic relations, 269, 275–276.
Brice, A. C., quoted, 62.
Bricklayers' Association of Philadelphia and Baltimore, 614.
Bricklayers' and Masons' International Union of America, 106 (note), 108, 121, 125, 128, 131 (and note), 132–133, 138, 142, 144, 162–164, 192 (note), 197, 200–202, 209, 211–212, 216 (and note), 218, 220–221, 228, 232, 615, 617 (note), 653–654, 685–686.
Bricklayers' and Masons' Union of St. Louis, 703.
Brickmakers' Alliance, National, 119.
Bridge and Structural Iron Workers, International Association of, 685–686.
Brock, Father John, 756, 759.
Brooks-Sumner affair and North Carolina, 538.
Brown, Bedford, 498–499, 570, 580 (note).
Brown, John (of Ossawatomie), 548–551, 553.
Buchanan, James, 537–538, 541, 547–548.
Builders' Association of Chicago, 159.
Building Trades Council, International, 651 (note); history, 679–683, 685; structure, 688, 692–696; functions, 697–715; jurisdictional disputes, 697–702; eight-hour day, 704; trade label, 704; strike, 711–713, 744; and legislation, 714.
Building Trades Council of Chicago, 690; of Cleveland and Vicinity, 690; of Charleston, 713.
Busbee, Quentin, 578 (note), 581.
Cairnes, John Elliot, quoted, 106 (note).
Calhoun, John C., 488–489, 491, 503.
Calvert, Cecilius (Lord Baltimore), 756, 768, 774–775, 777, 802–808.
Calvert, Leonard, 751, 769–770, 774, 780–781, 788–789, 792–793.
Calvo, Carlos, quoted, 24–25, 39.
Calwell, David, 465, 467.
Campbell, Geo. W., as minister to Russia, 368 (and note), 373, 382–383, 392–393.
Canning, George, and U. S., 415, 422.
Canning, Stratford, and U. S., 416.
Capodistrias, Count, on Russia and U. S., 347–351, 353–354, 402, 414.
Car Workers, International Association of, 211.
Carlisle, Calderon, quoted, 18–20, 21.
"Carolina Watchman," 592 (note).
Carpenters and Joiners, Amalgamated Association of [British], 109, 111.
Carpenters and Joiners of America, United Brotherhood of, 115, 139–140, 148, 150–152, 158–159, 173–177, 182, 183 (note), 192 (note), 193, 195, 206, 209, 211, 213, 217, 221–222, 227, 229–230, 232–234, 242, 246, 669 (note), 685–686, 699–700.
Castlereagh, Lord, quoted, 34; on Russia and U. S., 317, 328, 330–331, 395–396.
Caswell, Richard, 454 (and note), 459–462.
Caswell, Fort (N. C.), 576–577, 590.
Cathcart, Lord, on Russia and U. S., 308, 317, 325.
Catherine II. and Armed Neutrality, 257–258; and U. S., 266–268, 271.
Cedar Rapids plan, in railway unions, 687.
Cement Workers, American Brotherhood of, 682 (note).

Central Trades and Labor Council of New Orleans, 634.
Chambers, Wm. L., quoted, 79.
Chandler, Wm. E., quoted, 74.
Chatham Co. (N. C.), 486 (note), 490–492, 512, 539, 541, 597.
Chilomacon, *see* Tayac.
China, trade with northwest coast of America, 298, 405–406.
Cigar Makers' International Union of America, finances of, 106, 108 (and note), 110–112, 116 (note), 121–122, 124, 131 (and note), 132, 135 (note), 137 (note), 138, 139 (and note), 142, 143 (note), 145, 148–150, 152–155, 161, 168–170, 172, 177–179, 184–186, 188–190, 192–193, 198, 201–202, 204–206, 208–209, 212, 214–218, 220, 221 (note), 227, 231 (note), 235 (note), 236, 241–243, 247; and Knights of Labor, 625–626; union label, 657, 659.
Cigar Makers' Official Journal, 212, quoted, 623.
Claiborne, Wm., 753 (note), 754 (and note).
Clarke, Henry T., 567.
Clay, Henry, and Spanish-America, 367; and North Carolina, 488, 490, 508, 514–515, 518.
Cleveland, Grover, quoted, 13, 58–60, 74.
Clingman, Thos. L., 516, 523, 526, 532 (and note), 535 (note), 537, 541–542, 547, 572–574, 583, 595.
Coal Hoisting Engineers, National Brotherhood of, 119, 211.
Colombia, S. A., 421.
Columbia River, 298–299, 426.
Comity of nations, violation of, 23.
Commerce, considered as filibustering, 19; injured in war, 49–50, 52–55.
"Commodore," the, filibuster, 20–21.
Community of funds in trade unions, 108–116.
"Competitor," the, filibuster, 31, 58.
Compromise of 1850 and North Carolina, 527–528, 533.
Constitutional Convention (1787), North Carolina delegates to, 461–464.
Consular immunity, 339–355, 362–364.
Contraband, 258, 281, 296, 439.
Convention expenses in American trade unions, 214–218.
Coöperation, in Knights of Labor, 659; in Am. Federation of Labor, 661.
Coopers' International Union of North America, 247.
Cornwallis, Thos., 751, 796.
Craige, Burton, 573, 586, 595.
Crawford, William H., and Russian relations, 334–335; and North Carolina, 488–491, 508.
Criminal code of Md. (1642), 784–785.
Cuba, condition in before War of 1898, 9–10; methods of warfare in, 9–10, 26; nonrecognition by U. S. as belligerent, 10–15; reasons, 13–15; practical recognition as insurgent, 17; filibustering in, 17–23, 28–31; the Junta, 23–28; alleged rights of intervention by U. S. in, 36–82; for destruction of the *Maine*, 41–47; for self-preservation, 47–49; for commercial and financial reasons, 49–55; for protection of American life and property, 55–59; for sake of humanity, 59–69, 82; for combined reasons, 81; value of American property in, 55; maltreatment of Americans in, 57–59; reconcentration in, 60–66; 74–76, 85, 89; Spain's inability to subdue insurrection in, 67–68; and Spanish Treaty Claims Commission, 69–82.
Dana, Francis, mission to Russia, 257–278; made minister to Russia, 259; instructions, 260; delays, 261–262; not

received, 264–266, 268–275; withdraws, 274, 276–278.
Dana, R. H., quoted, 12.
Daschkoff, André, Russian consul-general in U. S., 286, 290–291, 295, 305, 311, 316 (note), 341–344, 355, 358, 374–375, 406.
"Dauntless," the, filibuster, 22.
Davie, Wm. R., 458, 461–465, 467, 469, 474, 481–482.
Day, Wm. R., 41–42, 85, 88–89, 92.
Death benefit in American trade unions, 168–177, 191, 193, 246–248.
Debs, Eugene V., 725, 726.
Defense fund, finances of, 130–137; in Knights of Labor, 666; in Am. Federation of Labor, 666; in Am. Labor Union, 667; in trades councils, 711–712, 744; in industrial unions, 741.
Delgado case, 57–58.
De Lôme, Señor, 26–27, 85.
Democratic party in North Carolina, *see* North Carolina.
Dick, Robert P., 560 (note), 596.
Diekema, G. J., quoted, 75–77.
Diplomatic negotiations of United States with Russia (Hildt), 257–442.
Disability benefit in American trade unions, 168–177.
Douglas, Stephen A., 534, 541, 545, 558, 560, 562.
Dred Scott case and North Carolina, 540–541.
Dual affiliation, in Knights of Labor, 653–656; in Am. Federation of Labor, 653–657; in Am. Labor Union, 656–657.

Edwards, Weldon N., 586, 595.
Eight-hour day, 614–617, 622; in Knights of Labor, 667–668; in Am. Federation of Labor, 667–669; in Am. Labor Union, 669; in International Building Trades Council, 704; in Colorado, 723.
Electrical Workers, International Brotherhood of, 225, 247, 682 (and note), 686, 701.
Elevator Constructors, National Union of, 701.
Ellis, John W., 542–547, 549, 556–558, 567, 572, 577, 581, 584, 589–593.
Embargo acts, 286, 288, 337.
Employers and trade agreements, 702–703, 735.
Employment, stability of, in building trades, 610 (note).
Engineers, Amalgamated Society of, 630, 652 (note), 748–749.
England, attitude toward America (1781), 267; joins Coalition of 1798, 279; blockade of Europe, 284; war with Russia, 286; blockade of Chesapeake and Delaware, 312; refuses Russian mediation in War of 1812, 316–318, 323; offers to treat with U. S., 317, 323, 330–331; opposes Russia, 357; on Spanish-America, 369, 379, 382, 396; and northwest coast of America, 371, 405, 415–416, 418, 420, 424–425; on slaves in war, 394–402.
Exports, Cuban (1895–96), 10; American (1798–1812), 280 (note), 301 (note).

Farmers' Alliance, 661.
Federalists in North Carolina, *see* North Carolina.
Federation of Labor, American, defense fund in, 133, 666; "organizers" in, 204 (and note); finances of journal of, 213; investments of, 235; history, 625–626, 676–677; structure, 631–649; unit of organization, 632; local federation, 634; state federation, 636 (and note); national industrial union, 636; representative convention, 639–642, 693; referendum, 642; general executive board, 643, 646–647; president, 644–647; finances, 648–649; functions, 650–677; jurisdictional disputes, 650–653, 748–750; dual affiliation,

653–657; working card, 655; trade label, 657–659; coöperation, 661; boycott, 662–663, 713–714, 745; strike, 664–665, 668–669, 743; eight-hour day, 667–669; political activities, 669–670, 673, 675–676; and International Building Trades Council, 682–683, 697–698; and Structural Building Trades Alliance, 685; and United Brewery Workmen, 719–720; and United Mine Workers, 722; and Brotherhood of Railway Employees, 724; and Amalgamated Society of Engineers, 748–749.
Federation of Labor of Chicago, 634–635.
Federation of Organized Trades and Labor Unions, *see* Federation of Labor, American.
Federations, local, state and national, in Knights of Labor, 633–636; in Am. Federation of Labor, 634, 636; in Am. Labor Union, 634, 636.
Fenwick, Cuthbert, 760.
Ferebee, D. D., 568, 596.
Filibustering, laws against, 17–18; expeditions, 18, 20–22; considered as commerce, 19; laxity of U. S. against, 23, 27–30.
Finances of American trade unions, 105–248. *See also* Trade unions.
"Financiers" in American trade unions, 112, 223, 242–243.
Fiore, Pasquale, quoted, 25, 39.
Fisher, Father Philip, 756, 801–802.
Fishing, right of, on northwest coast of America, 407, 417, 420, 428–431, 433–436.
Flack, Horace Edgar, "Spanish-American diplomatic relations preceding the War of 1898," 9–95.
Flint Glass Workers' Union, American, 119–121, 136, 147.
Florida, American occupation of, 367; treaty of, 376, 381–383, 388–389.
Force bill (1833) and N. C., 497.
Foreign ministers, residence at Washington, 354 (note).
Forsyth, John, 381–382, 387.
Founders' Association, National, 156.
France, attitude toward U. S. (1781), 263–266, 277; rupture with U. S., 279; Coalition of 1798, 279; trade prohibitions, 300–302; on Spanish-America, 372, 388; invasion of Spain, 420.
Franklin, Benjamin, advises Dana, 261; on appointment of ministers, 262 (and note); commissioner of arbitration, 263, 277–278; on money for Russian ministers, 269.
Franklin, state of, 472 (and note).
Fuller, Chief Justice, quoted, 77.
Funck-Brentano, quoted, 34.
Furniture Workers' Union of America, International, 168.

Gage, Lyman, quoted, 29.
Gallatin, Albert, as minister to Russia, 313–316, 318–319, 323, 326–330, 334.
Garcia, Calixto, 63.
Garment Cutters' Assembly of Knights of Labor, 619.
Garment Cutters' Union of Philadelphia, 619.
Garment Workers of America, United, 114 (note), 115, 139 (note), 150, 153, 182 (note), 204–205, 214, 223–224, 746.
General Trade Union of Boston, 613.
General Trade Union of City of New York, 613.
Gerard, Thomas, 755, 776.
Ghent, treaty of, Russia and the slavery clause, 394–395, 397–402.
Gilmer, John A., 539, 541, 551–552, 584 (note), 596.
Glass Bottle Blowers' Association of the United States and Canada, 118–121, 124, 129 (note), 133–135, 137 (note), 146–147, 152, 169,

171–172, 191, 198, 200–202, 209, 221–222, 233, 235 (notes).
Glass Bottle Manufacturers' Association, 135.
Glass Workers' International Association of America, Amalgamated, 169 (note), 247.
Gomez, M., 61.
Graham, Wm. A., 516–518, 521–522, 532–533, 541, 561, 566, 592, 595–596.
Granite Cutters' National Union of the United States of America, 107 (note), 116, 118, 128, 132, 142, 144 (note), 148–151, 162, 168, 200, 210, 215–216, 227, 242.
Grant, Gen., quoted, 75, 77.
Gravener, Father John, 756, 758–759.
Greeley, Horace, 533, 536, quoted, 540 (note), 550.
Guilford Co. (N. C.), 486 (note), 490–492, 512, 539, 541, 588 (note), 597.
Gullon, Señor (Duke of Tetuán), 22–26, 28, 54, 84, 91, 95.

Halifax (N. C.), 454; Congress of, 454.
Hall, Wm. Edw., quoted, 11–12, 27–28, 32–33.
Halleck, Gen., quoted, 75.
Harris, Sir James, 270–271.
Harris, Levett, as consul and chargé in Russia, 284, 314, 339, 346–353, 355, 362–363, 395.
Hartford Convention and North Carolina, 483–484, 564.
Hat Finishers' National Trade Association of the United States of America, 106 (note).
Hatters of North America, United, 119–120, 204, 746.
Haywood, Wm. H., 520.
Heat, Frost and General Insulators and Asbestos Workers, National Association of, 682 (note).
Heffter, A. W., quoted, 39.
Hershey, Amos S., quoted, 11–13.
Highlanders of N. C., 454 (and note), 457–458.
Hildt, John C., on "Early diplomatic negotiations of the United States with Russia," 257–442.
Hillsboro, N. C., 501; Convention, 467–471.
Hod Carriers' and Building Laborers' International Union, 685–686.
Holden, William W., 537, 540, 542–545, 547, 559 (note), 560, 565, 570–571, 573, 575, 578–579, 581, 592, 594 (note).
Holy Alliance, and United States, 349, 364, 367–368, 372, 380–381, 385–386, 390–391, 396, 437.
"Horsa," the, filibuster, 21–22.
Horseshoers' International Union of the United States and Canada, Journeymen, 107 (note), 108, 117, 128, 133, 137, 143 (note), 149, 197, 210, 220–221.
Hyatt, P. F., quoted, 62–64, 84.

"Impending Crisis of the South" (H. R. Helper), 550–552, 588 (note).
Impressment, 314, 319, 336, 439.
Indians, sale of munitions of war to, 286, 295, 298–299, 405–406, 410, 432–435, 437; sale of liquor to, 432–435, 437; in Maryland (1639–42), 751–753, 756–758, 777–778, 786–788, 790–791, 795–796, 801; in Virginia (1639–42), 752, 787.
Industrial Congress of the United States, 613, 616–617.
Industrial federations of the United States, 609–612.
Industrial Union, history, 717–726; structure, 727–733; unit of organization, 727; conventions, 727–728; executive board, 728–729; president and other officers, 729–733; functions, 734–750; organization of new members, 734; trade agreements, 735–

737; trade label, 737–739; strikes, 739–744; boycott, 745–746; political activities, 746–748; jurisdictional disputes, 748–750.
Initiative, in American trade union conventions, 216; in American Labor Union, 642; in Knights of Labor, 642.
Insurance in industrial unions, 612.
Insurgency, 15–16.
Internal improvements in North Carolina, 499, 521–522, 542.
International Labor Union, 617.
International Steam Engineer, 213–214.
Intertrade associations, definition of, 609 (and note).
Intervention, authorities on, 32–36; alleged rights of, by United States in Cuba, 36–82; for self-preservation, 47–49; for commercial and financial interests, 49–55; for protection of American life and property in Cuba, 55–59; for sake of humanity, 59–69, 82; for combined reasons, 81; and Spanish Treaty Claims Commission, 69–82.
Investments of American trade unions, 234–236.
Iredell, Gov. James, 493 (and note).
Iredell, Judge James, 458, 466–467, 469, 479–480, 482, 493 (note).
Iron Molders' International Journal, 212.
Iron Molders' Union of North America, 106–107, 114 (note), 117–118, 122, 124, 131 (and note), 132–133, 136, 138, 142, 143 (note), 149, 151 (note), 153, 155–157, 161, 168, 174–176, 178–180, 183, 192–194, 196 (note), 198, 200–201, 203 (note), 206, 209–213, 215–216, 218 (and note), 220–225, 227–228, 231 (note), 232 (note), 235 (note), 238, 240, 244, 247, 685.
Iron, Steel and Tin Workers of the United States, National Amalgamated Association of, 107 (note), 114 (note), 119–121, 135–136, 143 (note), 144, 148, 152, 214, 233 (note), 617–618.

Jackson, Andrew, 488–493, 498, 503, 508, 515.
Jay, John, 263, 266, quoted, 278.
Jefferson, Thomas, commissioner of arbitration (1781), 263, 278; friendly attitude toward Russia, 283–285; sends minister there, 287, 289.
Jesuits in Maryland (1639–1642), 756–759, 763–764, 768–773, 800–808.
Johnson, Fort (N. C.), 576–577, 590.
Johnston, Samuel, 453–454, 458, 465, 467, 471–472, 474, 477, 479, 482.
Joint Conference Board of printing trades unions, 679 (note).
Jones, Willie, 453–455, 458–459, 461, 465–468, 470, 472–473.
Journal of United Labor, 671.
Journals, labor, and boycotts, 745–746.
Junta, Cuban, 21, 23, 25–26, 28, 30.

Kansas-Nebraska Bill and North Carolina, 534–536.
Kennedy, Crammond, quoted, 80.
Kent Island (Md.), 753.
Kentucky Resolutions and North Carolina, 480–481, 483 (note), 564.
King, Rufus, as minister to Great Britain, 279–283.
King, William R., 356–358.
Kirk, William, on "National labor federations in the United States," 609–750.
Knights of Labor, defense fund of, 131–132, 666; sympathetic appeal in, 138; early beneficiary work, 168; history, 619–626, 676; structure, 631–649; unit of organization, 631–632; local federation, 633–634; state federation, 635–636; national trade as-

sembly, 636–638; representative convention, 639, 641, 646; initiative and referendum, 642, 644; general executive board, 643–644, 646; president, 644–647; finances, 647–648; functions, 650–677; jurisdictional disputes, 650; dual affiliation, 653–656; working card, 655; label, 657–658; coöperation, 659–661; boycott, 661–662, 745; strike, 663–664; eight-hour day, 667; political activities, 669–672, 674; and miners' unions, 721.
Know Nothing party in North Carolina, 538–540, 548, 551.
Kodiack, Russian colony, 286.
Kosloff, Russian consul general, 340–344, 346–349, 350–355.

Label, union, finances of, 204–205; in Knights of Labor, 657–658; in Am. Federation of Labor, 657–659; in Am. Labor Union, 659; in trades councils, 704; in industrial unions, 737–739.
Labor Compendium, in legislation, 714.
Labor federations, general, in the United States, 609–610; history, 613–630; structure, 639–649; representative convention, 639–643; general executive board, 643–644; president, 644–647; finances, 647–649; functions, 650–677.
Labor Union, American, history, 627–630; political activities, 628–630; structure, 631–649; unit of organization, 633; local federation, 634; state federation, 636; national industrial union, 636, 638; representative convention, 641–642; initiative and referendum, 642, 644, 647; general executive board, 643–644, 646–647; president, 644–647; finances, 649; functions, 650–677; jurisdictional disputes, 652–653; dual affiliation, 656–657; boycott, 662; strike, 665; defense fund, 667; eight-hour day, 669; political activities, 672–673, 676; and Brotherhood of Railway Employees, 724.
Labor Union, Western, *see* Labor Union, American.
Laborers' Union, International, 682 (note).
La Fayette, Marquis de, and Russian mediation in War of 1812, 335–336.
Lawrence, T. J., quoted, 11, 32.
Leather Workers on Horse Goods, United Brotherhood of, 117, 170, 178, 182, 183 (note), 190 (and note), 192–193, 198, 213–215, 227, 230.
Lee, Fitzhugh, 41–42, quoted, 61.
Le Fur, L., quoted, 29, 48, 56, 66–67.
Legislation and Knights of Labor, 669–672, 674; and Am. Labor Union, 672–673; and Am. Federation of Labor, 669–670, 673, 675–677; and trades councils, 714–715.
Lewger, John, 751, 786.
Lincoln, Abraham, 546, 559–560.
Livingston, Robert, and Russia, 267–268, 274.
Local unions, finances of, 105, 109, 111–121, 124, 161–162, 236–245; in general labor federations, 631; in industrial unions, 727.
Lockouts, revenue for, 130. *See also* Strikes.
Locomotive Engineers, Grand International Brotherhood of, 106 (note), 136, 209, 242.
Locomotive Firemen, Brotherhood of, 107 (note), 136, 152 (note), 209, 245, 686.
Longshoremen, Marine and Transport Workers' Association, International, 119 197, 612, 728, 730, 732 (note), 734.
Lowndes, William, 368 (note),

McDowell, Joseph, 465, 467.
MacFarland, W. W., quoted, 43.
McGarr, Owen, quoted, 62.
Machinists, International Association of, 106, 113, 115, 139

(and note), 143 (note), 149-151, 153, 157-158, 162, 168, 171, 183, 190-191, 192 (note), 193, 198, 203, 206, 209-211, 213, 217, 218 (note), 221, 227, 231 (note), 232 (note), 235-236, 242, 244, 247, 652 (note), 749.
McKinley, Wm., 14-15, 37, 47, 58, 60, 74-76, 84, 91-94.
Maclaine, Alexander, 458, 467.
Macon, Nathaniel, 483, 486-487, 490 (note), 496, 511.
Macon, Fort (N. C.), 577, 590.
Madison, James, sends minister to Russia, 289-291; instructions, 290; message, 304; on Russian mediation in War of 1812, 313; decides Gallatin's standing, 315; instructs ministers, 316; proclamation, 337.
Maine, destruction of the, 38, 40-47, 81, 83.
Mamiani, Count, quoted, 39.
Mangum, Willie P., 498-499, 516-518, 523, 533 (note), 534 (note), 541, 595.
Marble Workers, International Association of, 210.
Mare clausum, 409-411.
Maritime Confederacy, 259, 260 (and note), 391.
Maritime rights, 317; *see also* Impressment.
Martens, G. F. de, quoted, 34.
Martin, Alexander, 461-464, 466, 479.
Maryland during English Civil Wars, 750-808; Indians, 751-753, 777-778, 786-788, 790-791, 795-796, 801; Claiborne's property, 753-755; Jesuits, 756-759, 768-773, 800-808; Assemblies, 759-764, 766-769, 773-776, 778-786, 789-795; laws, 760-763, 766-767, 775, 779-786, 790-795; events of 1641, 764-766; Conditions of Plantation, 768-770; events of 1642, 777-778; Governor's new commission, 788-789; Brent's difficulties with Governor, 796-800.
Maury, Wm. A., 76-79.
Meat Cutters and Butcher Workmen of North America, Amalgamated, 114 (note), 140 (note), 200, 239, 245 (note), 727-728, 741-742.
Mecklenburg Co. (N. C.), 571 (note).
Mediation expenses in American trade unions, 199-202.
Metal Trades Alliance, 157.
Metal Trades Federation, history, 679, 683-684; structure, 688, 693-696; strikes in, 711-712, 744; legislation, 714.
Metal Workers' International Union, United, 149.
Mexican War and North Carolina, 521-524.
Middleton, Henry, made minister to Russia, 395; instructions, 395-396, 417; sees Castlereagh, 396; to St. Petersburg, 397; negotiates about Emperor's mediation in War of 1812, 397-399, 402; and northwest coast of America, 412-414, 425-426, 428-434, 437; on private war at sea, 439.
Mills, R. Q., quoted, 40.
Mine Workers of America, United, revenue of, 114 (note), 119, 139-140; expenditures of, 144-145 (and note), 152, 200, 202, 209-211, 213-215, 218; financial administration of, 222, 227, 232 (note), 235-236, 239, 244, 248; jurisdictional disputes, 651 (note); history, 721-722; structure, 727-733; unit of organization, 727; executive board, 728 (note); president and other officials, 729-733; strikes, 731, 741; boycott, 745, 746 (note); political activities, 747; jurisdictional disputes, 750.
Miners' and Laborers' Benevolent Association, 720.
Miners and Mine Laborers, National Federation of, 721.
Miners' Association, American, 720.

Miners' National Association, 720.
Miners' National Progressive Union, 721.
Miners, Western Federation of, 627, 630, 669; history, 722–723; structure, 727; unit of organization, 727; president, 730; strikes, 731, 740–742; functions, 736; trade agreements, 736; political activities, 747–748.
"Minerva," the (N. C.), 485–486.
Minorca, Island of, 267, 357.
Mitchell, John, 728 (note).
Monroe, James, on Russian-American friendship, 307, 334; on Russian mediation in War of 1812, 313; on consular immunity, 343–344; messages, 388–389, 437–438; makes Middleton minister to Russia, 395; and northwest coast of America, 408, 411, 437; his "doctrine," 422–424.
Monroe doctrine, 422–424.
Moore, J. B., quoted, 14.
More, Father Henry, quoted, 763, 807.
Morehead, James M., 515, 541, 582, 584 (note), 595.
Moret, Señor, 86–88.
Moses, Franklin J., 586 (and note), 588.
Musical Union, International, 630.

National labor federations in the United States, by Wm. Kirk, 609–750.
National Labor Union, 614–615.
National League of North America, 620.
"Nationalization and equalization" in American trade unions, 108–116.
Negroes, free, in North Carolina, 500–502.
Nesselrode, Count, and U. S., 321, 335, 346, 354, 360, 362, 382–383, 398–399, 402, 418, 426, 428–430, 440.
Neutrality, laws of U. S. on, 17–18, 19, 23, 26; of rights and goods, 271, 281, 284–285, 293, 314, 321, 359–360, 421, 439.
Newspapers in North Carolina, 485, 527 (note).
Nootka Sound Convention, 298.
North Carolina, state rights and political parties in (1776–1861), 449–599. See analytical table of contents, 449.
Nullification in North Carolina, 492–498.
Nullification in South Carolina, 492, 494–497.

"Observer" (Fayetteville, N. C.), 592 (note).
O'Connell, James, quoted, 195–196, 203.
Officials in American trade unions, 200–204, 206–211, 219–225, 230–233.
Olney, Richard, 52–53.
"Organizers" in American trade unions, 200–204.
Organizing expenses in American trade unions, 199–205, 210.
Organs, official, of American trade unions, 212–214.
Ostermann, Count, and U. S., 270–271, 273–274, 276.
Out-of-work benefit in American trade unions, 183–192.

Pahlen, Count, Russian minister, 290, 304–305.
Painters, Amalgamated, 710.
Painters, Decorators and Paperhangers of America, Brotherhood of, 149, 153, 162, 177, 193, 240, 244 (and note), 682 (and note), 685–686, 710.
Paris, Treaty of (1898), 70.
"Patriot," the (Greensboro, N. C.), 567 (note), 580 (note), 592 (note).
Pattern Makers' League of North America, 121, 151 (note), 177, 182, 199, 218 (note), 225, 227, 240, 248, 685.
Peoples' Party, National, 672.
"Per capita tax" in American trade unions, 109, 117–121, 246–248.

Phelps, E. J., quoted, 29–30, 49, 54–55, 66–67.
Phillimore, Sir Robert, quoted, 34–35, 48.
Piano and Organ Workers' International Union of America, 114, 169 (note), 182, 215.
Pickering, Timothy, 282.
Pinkney, Charles, 365, 392.
Pinkney, William, mission to Russia, 356–366; withdrawn from London, 306; appointed to Russia, 345; in Naples, 345, 350; to St. Petersburg, 355–356; receptions, 359–360; and northkoff's recall, 358; instructions, 359–360; and northwest coast of America, 361–362; on consular immunity, 363; on Spanish-America, 364; withdraws, 365, 366 (note).
Plasterers' International Association of the United States and Canada, Operative, 686.
Plumbers, Gas Fitters, Steam Fitters and Steam Fitters' Helpers of the United States and Canada, United Association of Journeymen, 114–115, 123–124, 150, 162, 182, 193, 209, 215, 217 (note), 227, 240, 685–686.
Poletica, P. de (Russian minister), 365, 372, 375–381, 384–388, 408–411, 419, 428, 431–432.
Political activities, of American labor federations, 669; of Knights of Labor, 669–672, 674–675; of Am. Federation of Labor, 669–670, 673; of Am. Labor Union, 672–673; of trades councils, 714–715; of industrial unions, 746–748.
Polo, Señor, 27, 45.
Pool, John, 555, 556 (note).
Popular sovereignty in North Carolina, 525–528, 534–536, 540–541, 546–547, 557–558.
Potters, National Brotherhood of Operative, 119–120, 136, 144.
President in American trade unions, the, 200, 207–210, 219–220.
Printing expenses in American trade unions, 211–214.
Printing Pressmen and Assistants' Union of North America, International, 197, 210, 708 (note).
Privateering, 455.
Protection of aliens, in Cuba, 30–31, 37, 57–59, 71–73, 84.
Protestants in Md. (1639–1642), 776.
Puryear, R. C., 535 (note).

Quakers in North Carolina, 490 (and note), 491, 492, 539 (and note), 597.

Railroad Brakemen, Brotherhood of, 686.
Railroad Telegraphers, Order of, 245.
Railroad Trainmen, Brotherhood of, 245, 686.
Railway Conductors of America, Order of, 136, 209, 213 (and note).
Railway Conductors, Grand International Brotherhood of, 686.
Railway Employees' Amalgamated Association of San Francisco, 724.
Railway Employees, Federation of American, 687.
Railway Employees of Winnepeg, United Brotherhood of, 724.
Railway Employees, Supreme Council of the United Orders of, 686.
Railway Employees, United Brotherhood of, 630; history, 723–725; structure, 726–727; unit of organization, 727; conventions, 727–728; executive board, 728–729, 732; strikes, 731, 739–742; officers, 731–732; functions, 736; trade agreements, 736; political activities, 746.
Railway Union, American, 724–725.
Randolph Co. (N. C.), 486

(note), 490–492, 512, 539, 541, 588 (note), 597.
Reconcentration, in Cuba, 9–10, 60–66, 71–72, 74, 85, 89; in Philippines, 75.
Referendum, in American trade union conventions, 216–217; in Am. Labor Union, 642, 644; in Knights of Labor, 642, 644; in Am. Federation of Labor, 642; in Federation of Organized Trades and Labor Unions, 642.
"Register," the (Raleigh), 485, 509, 522, 534 (note), 538 (note).
Regulators' War of 1769–71, 457, 505 (note).
Reid, David S., 528–531, 535, 537, 545, 582–583.
Religious toleration in Md. (1639–1642), 775–776.
Representation, in Knights of Labor, 639; in Am. Federation of Labor, 639–641; in Am. Labor Union, 641.
Republican party in North Carolina, *see* North Carolina.
Retail Clerks' International Protective Association, 200, 203, 206 (note), 209, 211, 244–245.
Revenue of American trade unions, 105–140. *See also* Trade unions.
Rivier, A., quoted, 33–34.
Rodgers, Sion H., 535 (note).
Roman Catholics in Md. (1639–1642), 756–759, 763–764, 768–773, 800–808.
Romanzoff, Count, and U. S., 285–286, 288–289, 294, 298–300, 302–304, 319–330, 333, 406.
Roofers, Damp and Waterproof Workers, International Brotherhood of Composition, 682 (note).
Rush, Richard, 361, 371–372, 395.
Russia, early diplomatic negotiations of the United States with (1776–1824), 257–443; *see* table of contents, 253.
Russian-American Co., 285–286, 295, 405–407, 436.
Sakolski, Aaron Morton, "The finances of American trade unions," 105–248.
Salaries in American trade unions, 205–211.
Sanguily case, 58.
Sanitation in Cuba, 10.
Sawyer Resolutions and North Carolina, 495 (note).
Search, right of mutual, 379, 431, 433, 435.
Secession in North Carolina, 526–527, 564–597.
Secretary-treasurer in American trade unions, the, 207–210, 221–225, 232–233.
"Self-ratification," 388.
Senate Committee on Foreign Relations, Spanish-American War of 1898, 38–40, 46.
Sheet Metal Workers' International Association, Amalgamated, 210, 248, 681, 682 (note), 686.
Sheridan, Gen., raid in Virginia compared with Cuban reconcentration, 65–66.
Sherman, Gen., march to sea compared with Cuban reconcentration, 65–66, 74–75.
Sherman, John, quoted, 84, 92.
Shirt, Waist and Laundry Workers' International Union, 139 (and note), 204, 211.
Short, William, 287–290.
Sick benefit in American trade unions, 177–183, 191–192.
"Silver Heels," the, filibuster, 28.
Slate and Tile Roofers' Union, International, 682 (note).
Slavery in North Carolina, 463–464, 485–490, 499–503, 506–507, 512, 521, 525–563.
Slaves, in time of war, 394–402.
Smith, W. N. H., 552, 561.
Socialism and labor federations in the United States, 610, 628–629, 673, 747–748.
Socialist Labor Party and Am. Federation of Labor, 674.
Sorel, A., quoted, 34.
Southern Convention and North Carolina, 581–584.
Southern Rights Associations, 527, 569.

Southern Rights party in North Carolina, 587 (and note), 589.
Sovereigns of Industry, 616.
Spaight, Richard D., 461, 467, 469.
Spaight, Richard D., Jr., 512.
Spain, and filibustering, 18, 22–23, 25, 27–31; and Cuban Junta, 23–28; and the *Maine*, 41–47; and American-Cuban trade, 52–54; and Americans in Cuba, 57–59; and Cuban reconcentration, 60–66; inability to subdue revolt in Cuba, 67–68; and Spanish Treaty Claims Commission, 69–82; efforts to avoid war with U. S., 83–95; and Russia, 378, 385–386, 390.
Spanish-America, Europe and, 364–365, 367–393, 420–422.
Spanish-American diplomatic relations preceding the War of 1898 (Flack), 9–95.
Spanish Treaty Claims Commission, 54, 55, 56, 69–82.
Spencer, Samuel, 465, 467–469.
Stamp system in American trade unions, 112, 239–240.
State rights and political parties in North Carolina, 1776–1861 (Wagstaff), 453–599. See analytical table of contents, 449.
Stationary Engineers, National Association of, 197.
Stationary Firemen, International Brotherhood of, 651, 720.
Steam and Hot Water Fitters and Helpers, National Association of, 682 (and note), 701.
Steam Engineers, International Union of, 119, 197, 204, 213–214, 651, 701, 719.
Steiner, Bernard C., on "Maryland during English Civil Wars," 750–808.
Stone Cutters' Association of North America, Journeymen, 106 (note), 144, 149, 172, 195, 210, 216, 220.
Stores, destruction of, in war, 51.
Stove Founders' Association, 156.
Strasser, Adolph, 110, quoted, 154 (and note), 184, 222, 623.
Strikes in American trade unions, revenue for, 130–140; expenditure in, 141–166; and Knights of Labor, 663–664; and Am. Federation of Labor, 664–665, 668–669; and Am. Labor Union, 667; and industrial unions, 730–731, 739–744; and trades councils, 744. *See also* Sympathetic strikes.
Strikes, sympathetic, 610; and Knights of Labor, 664; and Am. Federation of Labor, 665; and trades councils, 707–713; and Western Federation of Miners, 722–723; definition of, 743. *See also* Strikes.
Structural Building Trades' Alliance, 651 (note); history, 679, 685–686; structure, 688, 691 (note), 693–696; functions, 697–715; jurisdictional disputes, 698–702; sympathetic strike in, 711–712; and legislation, 714.
Suffrage in North Carolina, 529–531, 545.
Swain, David Lowrie, 499, 510.
Switchmen's Mutual Aid Association of North America, 686.

Table Knife Grinders' National Union of the United States, 211.
Tack Makers' Protective Union of the United States and Canada, 106 (note).
Tailors' Union of America, Journeymen, 218 (note), 248.
Tariff bill of 1820 and North Carolina, 488 (and note).
"Tariff of Abominations" in North Carolina, 492–498.
Tatischeff (Russian minister), 381–382, 387.
Taxation of slaves in North Carolina, 554–557.

Tayac, the, 757–758, 800 (and note).
Taylor, Hannis, 48, 53, 83.
Tetuán, Duke of. *See* Gullon, Señor.
Texas, annexation of, and North Carolina, 514–515, 518.
Thompson, Jacob, 574 (and note).
"Three Friends," the, filibuster, 22, 77.
Tobacco, Cuban crop of (1894–96), 10; Cuban export of, 53, 84; in Maryland (1639–42), 760, 761 (note).
Tories in North Carolina, 456–458.
Trade regulations, U. S. and Russia, 281, 295–296, 298, 340, 407–418, 420, 428–436, 438–439.
Trade Unions, finances of American (Sakolski), 105–248; ordinary revenue, 105–129; early history, 105–109; "per capita tax," 109, 117–121; "nationalization and equalization," 108–116; fixed share of gross receipts, 116–117; wage assessment, 119–121; high dues and large benefits, 121–127; incidental receipts, 127–129; extraordinary revenue, 130–140; for strikes and lockouts, 130–140; defense fund, 131–137; assessment, 137–138; sympathetic appeal, 138–140; strike expenditure, 141–166; early history, 141–143; relative amounts, 144–151; absolute amounts, 151–159; strike restriction, 160–166; beneficiary expenditure, 167–196; early features, 167–168; death or disability, 168–177, 191, 193, 246–248; sickness, 177–183; out-of-work and travelling loans, 183–191; amounts expended, 191–194; difficulties, 194–196; general expenditure, 197–218; portion of income used, 197–199; organizing, mediation and agitation, 199–205, 210; salaries and expenses of business management, 205–214; salaries, 205–211; travelling expenses, 211; postage and printing expenses, 211–214; convention expenses, 214–218; administration, 219–248; staff, 219–225; accounts, 225–227; safeguarding of funds, 227–236; administration of local unions, 236–245; tax collection, 238–240; bookkeeping and accounting, 241–243; safeguarding of funds, 243–245; tabular appendix, 246–248.
Trade Unions, British, 105, 108–110.
Trades and Labor Unions of the Pacific Coast, Representative Assembly of, 680.
Trades Council, local, 689–692.
Trades Council, national, 610; history, 679–687; structure, 688–696; representative convention, 692–694; executive board and president, 694–695; finances, 695–696; functions, 697–715; jurisdictional disputes, 697–702; trade agreements, 702–707; eight-hour day, 704; trade label, 704; working card, 704–706; arbitration, 706–707; strikes, 707–713, 744; walking delegate, 709–711; and legislation, 714–715.
Trades section, 689 (note).
Travelling loans in American trade unions, 183–184, 189–192.
Treaty between U. S. and Great Britain, 394; U. S. and Russia, 439.
Treaty of 1824, 405–440.
Troppau and Laybach, conference of, 396–397.
Trustees of funds in American trade unions, 230–231, 243.
Tryon, Wm., 457–458.
Turkey, and Russia, 271, 300, 399–400, 402–403; and U. S., 280; coalition of 1798, 279.
Turner, Nat, and North Carolina, 501–502.
Tuyll, Baron de, Russian minis-

ter, 358–359, 364–365, 412, 415, 417, 438.
Tyler, John, 517–518, 519 (note), 581.
Typographia, German-American, 114, 145, 172–173, 176–177, 181, 184, 186–189, 192–193, 195, 216.
Typographical Union of North America, International, 106–107, 115, 117, 131 (and note), 133–134, 138, 141–142, 145, 149 (and note), 153, 161, 164–165, 168, 172, 193, 198, 201, 204, 206–209, 212–213, 216 (and note), 218, 220–221, 225–229, 231 (note), 232, 234, 235 (note), 236 (note), 240, 242 (and note), 244, 248, 614, 617 (note), 618, 623, 669, 704 (note), 708 (note), 717.

Ukase of 1821, trade, 407–420.
Unit of organization, in Knights of Labor, 631–632; in Am. Federation of Labor, 632; in Am. Labor Union, 633; in industrial unions, 727.
United States Bank and North Carolina, 498–499, 517.
United States, diplomatic relations with Russia (1776–1824), 257–443. *See* table of contents, 253.
United States, non-recognition of Cuba as belligerent, 10–15; practical recognition as insurgent, 17; and filibustering, 18–23, 27–30; and Cuban Junta, 23–28, 30; alleged rights of intervention in Cuba, 36–41; for destruction of *Maine*, 41–47; for commercial and financial reasons, 49–55; for protection of American life and property in Cuba, 55–59; for sake of humanity, 59–69, 82; for combined reasons, 81; American property in Cuba, 55; maltreatment of Americans in Cuba, 57–58; and reconcentration in Cuba, 60–66, 74; and Spanish Treaty Claims Commission, 69–82; attitude toward Spain's offers of mediation, 83–95; resolutions of Congress authorizing intervention, 94.

Van Buren, Martin, 503 (and note), 515.
Vance, Zebulon B., 561, 573 (and note), 575–576, 595.
Vattel, Emeric de, quoted, 39.
Vaughan, Robert, 779.
Verac, Marquis de, 264–265, 267–270.
Vergennes, Count of, 261, 263, 264 (and note), 266, 277.
Virginia Resolutions and North Carolina, 481 (and note), 564.
Visit, right of, *see* Search, right of mutual.

Wagstaff, Henry M., State rights and political parties in North Carolina, 1776–1861, 449–599.
Wake Co. (N. C.), 578 (and note), 581.
Walking delegate in American trade unions, 709–711.
Walpole, Lord Horatio, 327 (and note), 332.
War, destruction of stores in, 51; destruction of property in, 55–57, 71–72.
Warfare, methods of, in Cuba, 9–10, 26, 60.
Watch Case Engravers' International Association of America, 169 (note).
Wayne Co. (N. C.), 588.
Webb, Sidney, quoted, 108.
Wellington, George, quoted, 67.
Weyler, Gen., reconcentration orders, 9–10, 60, 65, 74.
Wheaton, Henry, quoted, 35, 39, 43.
White, Father Andrew, 756–758, 771–773, 801.
Williamson, Hugh, 460–461, 464, 473–474, 477–478.
Wilmington, N. C., 498 (note), 501, 571, 574.
Wilmot Proviso and North Carolina, 521–524.
Wilson, G. G., quoted, 16.
Window Glass Blowers' Association, 107 (note).

Wise, Henry A., 537, 549.
Wood, Jas. P., 78.
Woodford, Stewart L., 44, 51, 83–95.
Wood Workers' International Union of America, Amalgamated, 699–701.
Woolsey, Theodore, quoted, 35, 49, 83.
Working card, in Knights of Labor and Am. Federation of Labor, 655–656; in trades councils, 704–706.
Workingmen's Association of North Carolina, 553–557.
Woronzow, Count, Russian ambassador to England, 279–283.

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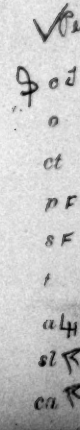
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